TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 493.

JACKSON W. GILES, APPELLANT,

vs.

E. JEFF HARRIS, WILLIAM A. GUNTER, Jr., AND CHARLES B. TEASLEY, BOARD OF REGISTRARS OF MONTGOMERY COUNTY, ALABAMA.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF ALABAMA.

FILED OCTOBER 31, 1902.

(18,721.)



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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., DECEMBER 26, 1902.

1 At a term of the circuit court of the United States for the middle district of Alabama, begun and holden at Montgomery, Alabama, on the first Monday in May, it being the 5th day of said month in the year of our Lord one thousand nine hundred and two. Present and presiding: The Hon. Thomas G. Jones, United States district judge for the northern and middle districts of Alabama,—sitting as circuit judge, Saturday, October 11, 1902, it being a day of said term, the following proceedings were had:

In the Circuit Court of the United States in and for the Middle District of Alabama.

JACKSON W. GILES, Complainant, *against.* E. JEFF HARRIS, WILLIAM A. GUNTER, Junior, and Charles B. Teasley, Board of Registrars of Montgomery County, Alabama, Defendants.	No. 234.	Bill of Complaint.

To the honorable the judges of the circuit court of the United States in and for the middle district of Alabama:

Humbly complaining, your orator Jackson W. Giles of the city of Montgomery, a citizen of the State of Alabama, brings this bill of complaint against E. Jeff Harris, William A. Gunter, Junior, and Charles B. Teasley, all residents of the city of Montgomery, board of registrars of Montgomery county, Alabama, and citizens of the State of Alabama, in his own behalf, and on behalf of more than five thousand negroes citizens of the county of Montgomery, Alabama, similarly situated and circumstanced as himself, who are too numerous to be named and made parties hereto.

First. Thereupon your orator, by the undersigned solicitor in his behalf, complains and says that, he is a male citizen of the United States, of dark complexion and of African descent known as a negro, and that he was born in the State of Alabama, and is 43 years of age, and has resided in the State of Alabama more than 30 years, and in the county of Montgomery more than 30 years, and in precinct No. 4 of Montgomery county more than 2 years next before the filing of this bill; and has before the first day of February 1902 paid all his poll taxes due for the year 1901 re-
2 quired by the laws of Alabama. That heretofore for a number of years prior to the filing of this bill, he has exercised all the rights and enjoyed all the privileges of an elector in the State of Alabama, especially the right to register as an elector, and to vote at the general elections in the State of Alabama, for State and Federal officers, and that he is now entitled to the rights and privileges of such elector in the State of Alabama, and possesses all the qualifications of an elector in said State, and is subject to none of the disqualifications set forth in the constitution of the State of Alabama, and that he is under the Constitution and laws of the

United States, duly qualified to vote at all Federal and State elections held in the precinct of his residence in said county and State.

Second. That the said defendants are the duly appointed, qualified and acting board of registrars of Montgomery county, Alabama, appointed under and by virtue of the new constitution of Alabama, which went into effect November 28th, 1901, and have been engaged since their appointment in the registration of the qualified electors of said county, and will continue in said office until the end of the year 1902 as will appear from section 186 of the new constitution of Alabama.

Third. Your orator further shows that said new constitution of Alabama, "article 8" contains the following provisions as to suffrage and elections to wit:

3 ARTICLE VIII.

Suffrage and Elections.

"177. Every male citizen of this State who is a citizen of the United States, and every male resident of foreign birth, who, before the ratification of this constitution, shall have legally declared his intention to become a citizen of the United States, 21 years old or upwards, not laboring under any of the disabilities named in this article, and possessing the qualifications required by it, shall be an elector, and shall be entitled to vote at any election by the people; provided, that all foreigners who have legally declared their intention to become citizens of the United States, shall, if they fail to become citizens thereof at the time they are entitled to become such, cease to have the right to vote until they become such citizens.

178. To entitle a person to vote at any election by the people, he shall have resided in the State at least two years, in the county one year, and in the precinct or ward three months, immediately preceding the election at which he offers to vote, and he shall have been duly registered as an elector, and shall have paid on or before the first day of February next preceding the date of the election at which he offers to vote, all poll taxes due from him for the year nineteen hundred and one, and for each subsequent year; provided, that any elector who within three months next preceding the date of the election at which he offers to vote, has removed from one precinct or ward to another precinct or ward in the same county, incorporated town or city, shall have the right to vote in the precinct or ward from which he has so removed, if he would have been entitled to vote in such precinct or ward but for such removal.

179. All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be *viva voce*.

180. The following male citizens of this State, who are citi-
4 zens of the United States, and every male resident of foreign birth, who, before the ratification of this constitution, shall have legally declared his intention to become a citizen of the United States, and who shall not have had an opportunity to perfect his citizenship prior to the twentieth day of December, nine-

teen hundred and two, twenty-one years old or upwards, who, if their place of residence shall remain unchanged, will have, at the date of the next general election the qualifications as to residence prescribed in section 178 of this constitution, and who are not disqualified under section 182 of this constitution, shall, upon application, be entitled to register as electors prior to the twentieth day of December, nineteen hundred and two, namely:

First. All who have honorably served in the land or naval forces of the United States in the war of 1812, or in the war with Mexico, or in any war with the Indians, or in the war between the States, or in the war with Spain, or who honorably served in the land or naval forces of the Confederate States, or of the State of Alabama in the war between the States; or,

Second. The lawful descendants of persons who honorably served in the land or naval forces of the United States in the war of the American Revolution, or in the war of 1812, or in the war with Mexico, or in any war with the Indians, or in the war between the States, or in the land or naval forces of the Confederate States, or of the State of Alabama in the war between the States; or,

Third. All persons who are of good character and who understand the duties and obligations of citizenship under a republican form of government.

181. After the first day of January, nineteen hundred and three, the following persons, and no others, who, if their place of residence shall remain unchanged, will have, at the next general election, the qualifications as to residence prescribed in section 178 of this article shall be qualified to register as electors; provided they shall not be disqualified under section 182 of this constitution.

First. Those who can read and write any article of the Constitution of the United States in the English language, and who are physically unable to work; and those who can read and write any article of the Constitution of the United States in the English language, and who have worked or been regularly engaged in some lawful employment, business or occupation, trade or calling for the greater part of the twelve months next preceding the time they offer to register; and those who are unable to read and write, if such inability is due solely to physical disability; or

Second. The owner in good faith in his own right, or the husband of a woman who is the owner in good faith, in her own right, of forty acres of land situate in this State, upon which they reside; or the owner in good faith in his own right, or the husband of any woman who is the owner in good faith, in her own right, of real estate situate in this State, assessed for taxation at the value of three hundred dollars or more, or the owner in good faith, in his own right, or the husband of a woman who is the owner in good faith, in her own right, of personal property in this State assessed for taxation at three hundred dollars or more; provided, that the taxes due upon such real or personal property for the year next preceding the year in which he offers to register shall have been paid, unless the assessment shall have been legally contested and is undetermined.

182. The following persons shall be disqualified both from registering and from voting, namely:

All idiots and insane persons; those who shall by reason of conviction of crime be disqualified from voting at the time of the ratification of this constitution; those who shall be convicted of treason, murder, arson, embezzlement, malfeasance in office, larceny, receiving stolen property, obtaining property or money under false pretenses, perjury, subornation of perjury, robbery, assault with intent to rob, burglary, forgery, bribery, assault and battery on the wife, bigamy, living in adultery, sodomy, incest, rape, miscegenation, crime against nature, or any crime punishable by imprisonment in the penitentiary, or of any infamous crime or crime involving moral turpitude; also, any person who shall be convicted as a vagrant or tramp, or of selling or offering to sell his vote or the vote of another, or of making or offering to make false return in any election by the people or in any primary election to procure the nomination or election of any person to any office, or of suborning any witness or registrar to secure the registration of any person as an elector.

183. No person shall be qualified to vote, or participate in any primary election, party convention, mass meeting or other method of party action of any political party or faction, who shall not possess the qualifications prescribed in this article for an elector, or who shall be disqualified from voting under the provisions of this article.

184. No person, not registered and qualified as an elector under the provisions of this article shall vote at the general election in nineteen hundred and two, or at any subsequent State, county or municipal election, general, local or special; but the provisions of this article shall not apply to any election held prior to the general election in the year nineteen hundred and two.

185. Any elector whose right to vote shall be challenged for any legal cause before an election officer, shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received, and any one who wilfully swears or affirms falsely thereto shall be guilty of perjury, and upon conviction thereof shall be imprisoned in the penitentiary for not less than one nor more than five years.

186. The legislature shall provide by law for the registration, after the first day of January, nineteen hundred and three, of all qualified electors. Until the first day of January, nineteen hundred and three, all electors shall be registered under and in accordance with the requirements of this section as follows:

First. Registration shall be conducted in each county by a board of three reputable and suitable persons resident in the county, who shall not hold any elective office during their term, to be appointed within sixty days after the ratification of this constitution, by the governor, auditor and commissioner of agriculture and industries, or by a majority of them acting as a board of appointment. If one or more of the persons appointed on such board of registration shall refuse, neglect or be unable to qualify or serve, or if a vacancy or vacancies occur in the membership of the board of registrars from

any cause, the governor, auditor and commissioner of agriculture and industries, or a majority of them, acting as a board of appointment, shall make other appointments to fill such board. Each registrar shall receive two dollars per day, to be paid by the State, and disbursed by the several judges of probate, for each entire day's attendance upon the sessions of the board. Before entering upon the performance of the duties of his office, each registrar shall take the same oath required of the judicial officers of the State, which oath may be administered by any person authorized by law to administer oaths. The oath shall be in writing and subscribed by the registrar, and filed in the office of the judge of probate of the county.

Second. Prior to the first day of August, nineteen hundred and two, the board of registrars in each county shall visit each precinct at least once and oftener if necessary to make a complete registration of all persons entitled to register, and shall remain there at least one day from eight o'clock in the morning until sunset. They shall give at least twenty days' notice of the time when, and the place in the precinct where they will attend to register applicants for registration, by bills posted at five or more public places in each election precinct, and by advertisement once a week for three successive weeks in a newspaper, if there be one published in the county. Upon failure to give such notice, or to attend any appointment made by them in any precinct, they shall, after like notice, fill new appointments therein; but the time consumed by the board in completing such registration shall not exceed sixty working days in any county, except that in counties of more than nine hundred square miles in area, such board may consume seventy-five working days in completing the registration, and except that in counties in which there is any city of eight thousand or more inhabitants, the board may remain in session, in addition to the time hereinbefore prescribed, for not more than three successive weeks in each of such cities; and thereafter the board may sit from time to time in each of such cities not more than one week in each month, and except that in the county of Jefferson the board may hold an additional session of not exceeding five consecutive days duration for each session, in each town or city of more than one thousand and less than eight thousand inhabitants. No person shall be registered except at the county site or in the precinct in which he resides. The registrars shall issue to each person registered a certificate of registration.

Third. The board of registrars shall not register any person between the first day of August, nineteen hundred and two, and the Friday next preceding the day of election in November, nineteen hundred and two. On Friday and Saturday next preceding the day of election in November, nineteen hundred and two, they shall sit in the court-house of each county during such days, and shall register all applicants having the qualifications prescribed by section 180 of this constitution, and not disqualified under section 182, who shall have reached the age of twenty-one years after the first day of August, nineteen hundred and two, or who shall prove to the reason-

able satisfaction of the board that, by reason of physical disability or unavoidable absence from the county, they had no opportunity to register prior to the first day of August, nineteen hundred and two, and they shall not on such days register any other persons. When there are two or more court-houses in a county, the registrars may sit during such two days at the court-house they may select, but shall give ten days' notice, by bills posted at each of the court-houses, designating the court-house at which they will sit.

Fourth. The board of registrars shall hold sessions at the court-house of their respective counties during the entire third week in November, nineteen hundred and two, and for six working days next prior to the twentieth day of December, nineteen hundred and two, during which sessions they shall register all persons applying who possess the qualifications prescribed in section 180 of this constitution, and who shall not be disqualified under section 182. In counties where there are two or more court-houses the board of registrars shall divide the time equally between them. The board of registrars shall give notice of the time and place of such sessions by posting notices at each court-house in their respective counties, and at each voting place and at three other public places in the county, and by publication once a week for two consecutive weeks in a newspaper, if one be published in the county; such notices to be posted and such publications to be commenced as early as practicable in the first week of November, nineteen hundred and two. Failure on the part of the registrars to conform to the provisions of this
8 article as to the giving of the required notices shall not invalidate any registration made by them.

Fifth. The board of registrars shall have power to examine, under oath or affirmation, all applicants for registration, and to take testimony touching the qualifications of such applicants. Each member of such board is authorized to administer the oath to be taken by the applicants and witnesses, which shall be in the following form, and subscribed by the person making it, and preserved by the board, namely: 'I solemnly swear (or affirm) that in the matter of the application of —— —— for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God.' Any person who upon such examination makes any wilfully false statement in reference to any material matter touching the qualification of any applicant for registration shall be guilty of perjury, and upon conviction thereof, shall be imprisoned in the penitentiary for not less than one nor more than five years.

Sixth. The action of the majority of the board of registrars shall be the action of the board, and a majority of the board shall constitute a quorum for the transaction of all business. Any person to whom registration is denied shall have the right of appeal, without giving security for costs, within thirty days after such denial, by filing a petition in the circuit court or court of like jurisdiction held for the county in which he seeks to register, to have his qualifications as an elector determined. Upon the filing of the petition the clerk of the court shall give notice thereof to any solicitor authorized to represent the State in said county, whose duty it shall be to appear

and defend against the petition on behalf of the State. Upon such trial the court shall charge the jury only as to what constitutes the qualifications that entitle the applicant to become an elector at the time he applied for registration, and the jury shall determine the weight and effect of the evidence and return a verdict. From the judgment rendered an appeal will lie to the Supreme Court in favor of the petitioner, to be taken within thirty days. Final judgment in favor of the petitioner shall entitle him to registration as of the date of his application to the registrars.

Seventh. The secretary of state shall, at the expense of the State, have prepared and shall furnish to the registrars and judges of probate of the several counties a sufficient number of registration books and of blank forms of the oath, certificates of registration and notices required to be given by the registrars. The cost of the publication in newspapers of the notices required to be given by the registrars shall be paid by the State, the bills therefor to be rendered to the secretary of state and approved by him.

Eighth. Any person who registers for another, or who regis-
9 ters more than once, and any registrar who enters the name of any person on the list of registered voters, without such person having made application in person under oath on a form provided for that purpose, or who knowingly registers any person more than once, or who knowingly enters a name upon the registration list as the name of a voter, without any one of that name applying to register, shall be guilty of a felony, and upon conviction thereof shall be imprisoned in the penitentiary for not less than one nor more than five years.

187. The board of registrars in each county shall on or before the first day of February, nineteen hundred and three, or as soon thereafter as practicable, file in the office of the judge of probate in their county, a complete list sworn to by them of all persons registered in their county, showing the age of such persons so registered, with the precinct or ward in which each of such persons resides set opposite the name of such persons and shall also file a like list in the office of the secretary of state. The judge of probate shall, on or before the first day of March, nineteen hundred and three, or as soon thereafter as practicable, cause to be made from such list in duplicate, in the books furnished by the secretary of state, an alphabetical list by precincts of the persons shown by the list of registrars to have been registered in the county, and shall file one of such alphabetical lists in the office of the secretary of state; for which services by the judges of probate compensation shall be provided by the legislature. The judges of probate shall keep both the original list filed by the registrars and the alphabetical list made therefrom as records in the office of the judge of probate of the county. Unless he shall become disqualified under the provisions of this article, any one who shall register prior to the first day of January, nineteen hundred and three, shall remain an elector during life, and shall not be required to register again unless he changes his residence, in which event he may register again on production of his certificate. The certificate of the registrars or of the judge of

probate or of the secretary of state shall be sufficient evidence to establish the fact of such life registration. Such certificate shall be issued free of charge to the elector, and the legislature shall provide by law for the renewal of such certificate when lost, mutilated or destroyed.

188. From and after the first day of January, nineteen hundred and three, any applicant for registration may be required to state under oath, to be administered by the registrar or by any person authorized by law to administer oaths, where he lived during the five years next preceding the time at which he applies to register, and the name or names by which he was known during that period, and the name of his employer or employers, if any, during such period. Any applicant for registration who refuses to state such facts, or any of them, shall not be entitled to register, and any person so offering to register, who wilfully makes a false statement in regard to such matters, or any of them, shall be guilty of perjury, and upon conviction thereof shall be imprisoned in the penitentiary for not less than one nor more than five years."

10 Fourth. Your orator further shows, that the foregoing provisions of the new constitution of Alabama were enacted, intended and designed by the State of Alabama, to disfranchise the negroes of Alabama, and to deny and abridge their right to vote, solely on the ground of their race and color, as will appear by the speeches and debates in the constitutional convention, which enacted said sections while said sections were up for considenation on the 52nd, 53rd, 54th, 55th, 56th, 57th, and 58th days of the proceedings of said convention, which speeches and debates on those days are filed herewith and marked "Exhibit C" and prayed to be made a part of this bill.

Fifth. Your orator further shows that the constitutional convention which enacted the suffrage provisions aforesaid, was composed exclusively of the white citizens of Alabama, although the report of the 12th census of the United States shows that the population of the State of Alabama for 1900 is 1,001,152 whites, and 827,545 colored, and that in the following counties the negroes outnumber the whites to wit:

Autauga county	whites	6,722	colored	11,173
Barbour		12,781		22,371
Bullock		5,846		26,098
Butler		12,494		13,247
Chambers		15,139		17,415
Choctaw		7,854		11,278
Clarke		11,952		15,838
Dallas		9,283		45,372
Greene		3,307		20,875
Hale		5,664		25,347
Lowndes		4,764		30,889
Macon		4,252		18,874
Marengo		8,841		29,474
Monroe		10,529		13,137

Montgomery	19,825	52,222
Perry	6,821	24,962
Pickens	10,481	13,921
Russell	5,930	21,153
Sumter	5,672	27,038
Talladega	17,547	18,226
Wilcox	6,979	28,652

Sixth. Your orator further shows that the said constitutional convention composed exclusively of the white citizens of Alabama as aforesaid, was called for the avowed purpose of disfranchising the negroes in the State of Alabama without disfranchising a single white man; and that all of its provisions as to suffrage and elections were directed against, and aimed at the negro exclusively, and were not intended to affect or operate against the rights of any white man in the State of Alabama, which object and purpose for calling said convention, and the object and purpose for the enactment of said sections will appear more fully from the address of the presiding officer of said convention, Hon. John B. Knox, delivered upon the opening day of the same, which said address is hereto attached and marked "Exhibit A" and made a part of this bill.

11 Seventh. Your orator further shows that sections 180, 181, 183, 184, 185, 186, 187 and 188 are repugnant to the fourteenth and fifteenth amendments to the Constitution of the United States, and are wholly void and of no effect, not only because they were intended and designed to disfranchise your orator and the negroes of Alabama solely on the ground of their race and color and previous condition of servitude, but because said sections in themselves discriminate against your orator as an elector in the State of Alabama on account of his race, color and previous condition, and in effect deny him the right to vote, and hinder and abridge him in the exercise of that right, solely on account of his race and color and previous condition of servitude.

Eighth. Your orator further shows that subdivisions one and two of section 180 of "article 8" of the new constitution of Alabama, are obnoxious and repugnant to the fourteenth and fifteenth amendments to the Constitution of the United States in this; that said subdivisions do not contain a statement of the qualifications required of electors which are applicable to, and attainable by all alike regardless *to* race, color and previous condition of servitude, but discriminate against your orator and the negroes of Alabama because of their race and color and previous condition of servitude; and because said subdivisions establish hereditary rights and privileges, and are class legislation, and in effect deny your orator the equal protection of the law, and deny him and his race the right to vote, on account of their race and color and previous condition of servitude.

Ninth. Your orator further shows that said subdivision 3rd of section 180 of the suffrage article of the new constitution of Alabama, is obnoxious and repugnant to the fourteenth and fifteenth amendments to the Constitution of the United States, in this, that

said subdivision is not a clear and positive declaration of the qualifications required to be an elector, but is wholly uncertain, and too loose and general, and invests the board of registrars with arbitrary power, and in effect deny your orator the equal protection of the law, and deny him and his race the right to vote on account of their race and color and previous condition of servitude.

Tenth. Your orator further shows that section 181 of the suffrage article of the new constitution of Alabama, is also obnoxious and repugnant to the fourteenth and fifteenth amendments to the Constitution of the United States in this, that while said section pretends to define and prescribe the qualifications of electors after the first day of January 1903, it was in real truth, enacted and intended to apply only to your orator and the negroes of Alabama, and was not intended to affect the rights and qualifications of the white people of Alabama, it being the intention to register only white persons under the temporary plan, and to force the negroes to wait until after January first 1903 as will hereinafter more fully appear from the allegations and exhibits to this bill, and the proof that will be taken and submitted in support of the same, and is only a part of one entire scheme to deny and abridge the right of your orator to vote in the State of Alabama, and the rights of his race, on account of their race and color and previous condition of servitude.

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Your orator further shows that section 186 of the suffrage article of the new constitution of Alabama, is obnoxious and repugnant to the fourteenth and fifteenth amendments to the Constitution of the United States in this, that the board of registrars are given absolute and unlimited power, and are clothed with the discretion of judicial officers, solely for the purpose of placing said boards beyond the process of the courts, and of more effectually denying, abridging and hindering your orator in his right to qualify as an elector, and to vote in the State of Alabama, on the ground of his race and color and previous condition of servitude; and further because the right of appeal pretended to be given by said section from the decision of said registrars to the circuit courts of the State of Alabama, to be tried before a jury as therein prescribed, is a mere pretext and a fraud, and was not meant to give any real remedy to your orator and his race when refused registration, because at the time said section was enacted and for a long time prior thereto, and at the present time, the juries in all the trial courts of Alabama were composed, and are composed exclusively of white men, and negroes were, and are excluded from service on any juries in the trial courts of Alabama, for no other reason than their race and color, although otherwise qualified for such service, and the makers of said constitution knew that an appeal to said courts from the decision of the registrars would result in the same denial of constitutional rights, and that your orator and his race would meet the same prejudice exhibited against them by the board of registrars, and that said section is also a part of the scheme to deny and abridge the right of your orator to vote in the State of Alabama, and the right of his race to vote, on account of their race and color and previous condition of servitude.

Eleventh. Your orator further shows and charges that all of said sections, 180, 181, 183, 184, 185, 187, and 188, of the new con-
13 stitution of Alabama, are an artful scheme and device on the part of the State of Alabama and the dominant race, and the party in power in the State of Alabama, to evade and avoid the provisions of the fourteenth and fifteenth amendments to the Constitution of the United States, and to disfranhcise your orator and the negroes of Alabama, and to deprive them of the right to vote in said State and to abridge and hinder them in the exercise of said right, solely on the ground of their race and color and previous condition of servitude under the semblance of law.

Twelfth. Your orator further shows and charges that, the said defendants, well knowing the purpose and intention of the aforesaid sections, accepted the appointment to said office, and duly qualified as such registrars, and entered upon the duties of the same for the purpose of carrying out the scheme of desfranchising your orator, and all the members of his race, similarly situated and qualified, in Montgomery county, Alabama, in contravention of the fifteenth amendment to the Constitution of the United States.

Thirteenth. Your orator further shows that on the 13th day of March 1902, while the board of registrars were in session at the county court-house in the city of Montgomery, the county site of Montgomery county, engaged in the registration of the qualified electors of said county, your orator made application to said board in the proper form required by law, to be registered as a qualified elector in said county and precinct of his residence, and did then and there comply with all the legal and reasonable requirements of said board, in order that they might enroll his name as an elector as aforesaid, and issue to him a certificate, but said board arbitrarily and without authority of law refused to register your orator, and refused to issue to him a certificate, for no other reason than his race and color, and at the same time, and since the date of his application, said board of registrars, refused large numbers of negroes applying for registration, many of whom exhibited certificates showing honorable service in the land forces of the United States in the late civil war, who were equally as well qualified as your orator, for no other reason than their race and color, while all white men applying to said board were registered and the negroes were told to come back after January 1st, 1903.

Fourteenth. Your orator further shows that at the time he applied to said board of registrars for registration as aforesaid, that they required your orator and all negroes applying for registration to produce the testimony of two white persons as to their character and qualifications under section 180 of the constitution, and refused to accept the testimony of any colored person, while all white
14 men who applied to said board were admitted to register without any evidence of qualification or character, except the affidavit of the applicant; and that those negroes who produced the testimony of white persons were refused just the same.

Fifteenth. Your orator says that by reason of the unfair and unjust discrimination against him and his race by said board of

registrars as aforesaid, and the refusal to register your orator and the members of his race duly qualified as aforesaid, and the refusal to issue to him and them certificates of qualification as electors in the State of Alabama, not only your orator, but more than five thousand negroes residing in Montgomery county, qualified electors under the Constitution and laws of the United States, and under the laws of Alabama, are disfranchised and will be denied and refused the right to vote in the general election to be held in the State of Alabama, and Montgomery county, in November, 1902, for no other reason than their race and color and previous condition of servitude, and will be denied and refused all participation in any party primary elections, or party conventions before said election, unless the defendants are restrained by this honorable court.

Sixteenth. Your orator further shows and charges that the conduct of said defendant board in refusing to register your orator and his race as aforesaid, was and has been followed by the boards of registrars throughout the State of Alabama, and their conduct in this respect was simply carrying out a conspiracy and scheme on the part of the State of Alabama and the dominant race and the party in power in said State, to refuse registration to the negroes of Alabama, and not allow them to qualify under what is known as a temporary plan under section 180 of said constitution, except in a very few instances, so that the great body of the negroes of Alabama would have to wait until 1903 to become registered and qualified, when section 181 as aforesaid will be in operation, while all the white men of the State would have become registered and qualified under the temporary plan and given life certificates.

Seventeenth. So that, your orator charges and shows that there are more than seventy-five thousand qualified electors of the negro race in the State of Alabama, who have thus been disfranchised by the State of Alabama, and by the action of the board of registrars throughout the State, for no other reason than their race and color and previous condition of servitude, and who will be denied
15 the right to vote in the coming general election in November, 1902, because not registered and holding certificates as provided in the said new constitution, while all white men who applied to said boards were registered and given certificates.

Eighteenth. And your orator further shows that the dominant race and party in power in the State of Alabama, made no secret of the conspiracy and plan to disfranchise the negroes as aforesaid, and from time to time published the doings and proceedings of the boards of registrars throughout the State in the Montgomery Advertiser, a newspaper published in the city of Montgomery, which is the official organ of the dominant race and party in power, and published the fact that the negroes were disfranchised and refused registration as aforesaid, which published articles are hereto attached and marked "Exhibit B" and prayed to be made a part of this petition.

Nineteenth. Your orator further shows, that under the constitution aforesaid, the registration books were closed on the first day of August 1902, and will remain closed until after the election in

November 1902, which will be a general election for State and Federal officers, and that no person will be allowed to vote at said election whose name does not appear upon the registration books, and who does not hold a certificate, and that it is the intention of the said defendant board of registrars, to furnish to the election officers in Montgomery county, in the precinct where your orator resides, a list of the registered persons qualified to vote in said precinct.

Twentieth. Your orator says that he is desirous of voting for persons of his choice who will be candidates for State offices, and for members of Congress at the coming election in November, and that he believes that his vital interests and the vital interests of his race will be affected by the result of said election, but that the paper-writing now in the hands of said defendant board of registrars, purporting to be the books of registration of said Montgomery county, do not, and will not contain his name as a registered voter, nor the names of more than five thousand other qualified electors of his race, for the reason before stated, and that he and they will not be permitted to vote at said election by the managers thereof, unless their names are found upon the books of registration, and they are able to produce the registration certificates as aforesaid, and that if the said defendant board be permitted to continue to use the aforesaid illegal, partial and void registration list, and if they be allowed to turn over the same to the managers of
16 said election to take place for the county of Montgomery, and be allowed to withhold certificates from your orator and his race, your orator and the other members of his race will be deprived of their right to vote at said election, for no other reason than their race and color and previous condition of servitude, and grievous and irreparable wrong and damage will be done them, and they will be denied the rights guaranteed by the fourteenth and fifteenth amendments to the Constitution of the United States, which can only be prevented by the interposition of this court, by writ of injunction restraining and preventing the said defendants from thus depriving your orator and his race of their right to vote in said coming election.

Twenty-first. Your orator further charges that, he has no adequate and complete remedy at law by which to provide against, and be relieved of the threatened injury to, and deprivation of, his constitutional rights and the rights of his race guaranteed by the fourteenth and fifteenth amendments to the Constitution of the United States, except in a court of equity where matters of this sort are cognizable and relievable and to the end that the defendants may be required to answer, but not under oath, (answer under oath being expressly waived) each and all of the allegations hereinbefore stated, and may be required and enjoined from further omitting from the registration books of Montgomery county, the name of your orator and the qualified members of his race, and from further denying to them a registration certificate as qualified electors of said Montgomery county under the laws and Constitution of the United States, and of the State of Alabama, and that your orator may have such other and further relief as unto your honors may seem proper.

Wherefore your orator prays;

I. That said defendants may be compelled to answer the premises (not under oath).

II. That the said defendants as individuals and as members of the board of registrars of Montgomery county, Alabama, may be perpetually enjoined from carrying out and enforcing the provisions of sections 180, 183, 184, and 186 of article 8 of the new constitution of Alabama, and that they be perpetually enjoined from making, using, or filing with the election officers of said county, any registration books or lists of the electors of Montgomery county, not containing the name of your orator, and the qualified members of his race who applied for registration prior to the first day of August 1902, and they be enjoined and restrained from withholding
17 from your orator and the qualified members of his race who applied for registration prior to August first 1902, certificates of registration, and from otherwise doing or performing any act in the premises which in effect will deprive your orator and his race of the right to vote in the general election to take place in November of 1902; and that sections 180, 181, 183, 184, 185, 186, 187 and 188 of "article 8" of the constitution of Alabama which went into effect November 28th, 1901, be declared null and void, because repugnant and obnoxious to the fourteenth and fifteenth amendments to the Constitution of the United States, in that, they deny your orator and the members of his race the equal protection of the law, and deny, your orator the right to vote and the members of his race, and abridge and hinder your orator and the members of his race in the exercise of the right to vote on account of their race and color and previous condition of servitude.

III. May it please your honors, to grant unto your orator a writ of injunction, issuing out of this honorable court under the seal thereof, directed to the said defendants as individuals and officers, enjoining and restraining them, and each of them, and commanding them forthwith to enroll the name of your orator upon the registration books of Montgomery county, Alabama, as a qualified elector, and all other qualified members of his race who applied for registration prior to August first 1902, and were refused registration as aforesaid, and that said defendants and each of them, individually and officially be restrained, enjoined and commanded to issue forthwith to your orator a certificate of registration as a qualified elector of the county of Montgomery, Alabama, and to issue certificates to all other qualified members of his race, who applied for registration prior to August first 1902, and were refused as aforesaid.

IV. May it please your honors to grant unto your orator, not only a writ of injunction, but furthermore to issue a writ of subpœna, directed to the said defendants severally, and thereby to command them upon a day certain therein named, to be and appear in this honorable court to answer the premises, and to perform and abide by such further order of the court as to your honors may seem meet to the end that your orator may have full and adequate relief in the premises.

V. The premises considered, may it please your honors to further

grant to your orator such other and further relief as the facts aforesaid may demand, and as may be in conformity with equity and good conscience, and in accord with the practice of this honorable court, as a court of equity. And your orator will ever pray.

WILFORD H. SMITH,
Solicitor for Complainant.

18 STATE OF ALABAMA, }
Montgomery County. }

Jackson W. Giles, of lawful age being duly sworn on his oath says, that he is the complainant in the foregoing bill, and that the matters and facts stated in the foregoing bill of complaint are true, except as to such charges as are therein stated to be upon information and belief, and as to those he believes the said charges so made to be true, and further affiant saith not.

JACKSON W. GILES.

Sworn to and subscribed before me this 13 day of Aug. 1902.
[SEAL.]
J. A. ELMORE,
U. S. Comm'r.

Filed September 3, 1902.

J. W. DIMMICK, *Clerk.*

EXHIBIT "A."

19

Address of Hon. John B. Knox, President of the "Constitutional Convention."

In accepting it Mr. KNOX said:

Mr. KNOX: Gentlemen of the convention; I thank you for the high honor you have conferred in electing me to preside over the deliberations of this convention. Viewed from the standpoint of my profession, to which, up to this moment, my life's work has been devoted, it is a great honor, indeed; for I know of no higher honor that can be conferred upon a lawyer than to be made president of the constitutional convention, which represents the sovereignty of his people; and numbers among its delegates, in large part, the intellect and talent of the State—those who have in the past, and will in the future, exert a potent influence in shaping and directing the affairs of the State.

Importance of the issue.

In my judgment, the people of Alabama have been called upon to face no more important situation than now confronts us, unless it be when they, in 1861, stirred by the momentous issue of impending conflict between the North and the South,

were forced to decide whether they would remain in or withdraw from the Union.

Then, as now, the negro was the prominent factor in the issue.

The southern people, with this grave problem of the races to deal with, are face to face with a new epoch in constitution-making, the difficulties of which are great, but which, if solved wisely, may bring rest and peace and happiness. If otherwise, it may leave us and our posterity continuously involved in race conflict, or what may be worse, subjected permanently to the baneful influences of the political conditions now prevailing in the State.

So long as the negro remains in insignificant minority, and votes the Republican ticket, our friends in the North tolerate him with complacency, but there is not a northern State, and I might go further and say, there is not an intelligent white man in the North, not gangrened by sectional prejudice and hatred of the South who would consent for a single day to submit to negro rule.

If the negroes of the South should move in such numbers to the State of Massachusetts, or any other northern State, as would enable them to elect the officers, levy the taxes, and control the government and policy of that State, I doubt not they would be met, in spirit, as the negro laborers from the South were met at the State line of Illinois, with bayonets, led by a Republican governor, and firmly but emphatically informed that no quarter would be shown them in that territory.

One has studied the history of recent events to very little purpose who has failed to discover that race prejudice exists at the North in as pronounced a form as at the South, and that the question of negro domination, when brought home, will arouse the same opposition in either section.

And what is it that we want to do? Why it is within the limits imposed by the Federal Constitution, to establish white supremacy in this State.

This is our problem, and we should be permitted to deal with it, unobstructed by outside influences, with a sense of our responsibilities as citizens and our duty to posterity.

Northern interference.

Some of our northern friends have ever exhibited an unwonted interest in our affairs. It was this interference on their part that provoked the most tremendous conflict of modern times; and there are not a few philanthropists in that section who are still uneasy lest we be permitted to govern ourselves and allowed to live up to the privileges of a free and

spirit, are greatly concerned about the condition of the Chinamen in China, but we do not find them appealing to Congress, sovereign people! Some of the same, in like missionary or interfering with the local policy of California, a northern State, for the protection of the Chinaman who is a resident there, or making any attempt to interfere with the right of that people to govern themselves, and to provide for a pure administration of government and for the protection of property.

If it is the negro who is the object of their solicitude, it would seem—not to speak of Africa itself—they would find an inviting field in Cuba and in our new acquisitions of Hawaii, Porto Rico and the Philippines. The disinclination they exhibit to enter this field only serves to confirm the well-grounded conviction in this section, that the point of their interference is not so much to elevate the black man as it is to humiliate the white man with whom they have long been in antagonism.

But we may congratulate ourselves that this sectional feeling which has served to impair the harmony of our common country, and to limit the power and retard the development of the greatest government on earth, is fast yielding to reason.

While we may and do differ from him politically, there is not an enlightened and patriotic southern man who fails to see that much of this result is due to the honorable and statesman-like policy of the present Chief Executive of these United States, who, by the consideration he has shown our section in many ways, notably in the Spanish-American war, and by refusing to lend his approval to any movement looking to the reduction of our representation in Congress or in the electoral college, has shown himself capable of being President of the whole country and not merely one section of it and has been enabled to present the spectacle of a re-united country, and contributed much to place our government in the very front rank with the nations of the world.

The attitude of the southern man towards the negro.

The southern man knows the negro, and the negro knows him. The only conflict which has, or is ever likely to arise, springs from the effort of ill-advised friends in the North to confer upon him, without previous training or preparation, places of power and responsibility, for which he is wholly unfitted, either by capacity or experience.

When it comes, however, to dealing with the negro, in domestic service, or in a business way, the southerner is infinitely more indulgent to him than his northern compatriot.

There comes to us a well authenticated story from Kentucky, of an old darkey, who, after the war, influenced by the delusion that the only friends the negro had were in the

North, wandered up into Illinois, hoping to find an easy fortune. But here he soon found that while the people had much to say to him about the evils of slavery, and the destiny of his race, every one with whom he did business held him to a strict accountability. Trained, as he was, to the slow movement of the mule in the southern cornfield and the cotton patch, he could not handle the complicated machinery, or keep pace with the quicker methods of farming in the West, and so he was soon cast adrift. When he asked for help he was told to go to work, and so he wandered, foot-sore and weary, back through Indiana and Ohio until he reached again the old southern plantation in Kentucky. Finding the planter comfortably seated upon his veranda, the old darkey approached, hat in hand, and asked for something to eat.

"Why, you damned black rascal, what are you stopping here for? Go into the kitchen and tell the cook to give you something to eat."

"Before God, Master," the old darkey said, grinning from ear to ear, "them's the sweetest words I'se heard since I left old Dixie."

The old man was home at last. He was among people who understood him, and whom he understood.

White supremacy by law.

But if we would have white supremacy, we must establish it by law--not by force or fraud. If you teach your boy that it is right to buy a vote, it is an easy step for him to learn to use money to bribe or corrupt officials or trustees of any class. If you teach your boy that it is right to steal votes, it is an easy step for him to believe that it is right to steal whatever he may need or greatly desire. The results of such an influence will enter every branch of society, it will reach your bank cashiers, and affect positions of trust in every department; it will ultimately enter your courts, and affect the administrations of justice.

I submit it to the intelligent judgment of this convention that there is no higher duty resting upon us, as citizens and as delegates, than that which requires us to embody in the fundamental law such provisions as will enable us to protect the sanctity of the ballot in every portion of the State.

The justification for whatever manipulation of the ballot that has occurred in this State has been the menace of negro domination. After the war, by force of Federal bayonets, the negro was placed in control of every branch of our government. Inspired and aided by unscrupulous white men, he wasted money, created debts, increased taxes until it threatened to amount to confiscation of our property. While in

power, and within a few years, he increased our State debt from a nominal figure to nearly thirty millions of dollars. The right of revolution is always left to every people. Being prostrated by the effects of war, and unable to take up arms in their own defense, in some portions of this State, white men, greatly in the minority, it is said, resorted to strategem —used their greater intellect to overcome the greater number of their black opponents. If so such a course might be warranted when considered as the right of revolution, and as an act of necessity for self-preservation. But a people cannot always live in a state of revolution. The time comes, when, if they would be free, happy and contented people, they must return to a constitutional form of government, where law and order prevail, and where every citizen stands ready to stake his life and his honor to maintain it.

What remedy shall be adopted.

Upon the threshold of our deliberations, I will not undertake to indicate to you how you should solve this new and difficult question of constitutional reform. At the outset of this movement, I ventured to suggest that delegates should be cautious in undertaking to define just what provisions would be or should be embodied in the constitution; that the new constitution, when made and placed before the people for ratification, would be and ought to be the result of the united action of the convention; that if one came here with his mind made up and his constitution in his pocket, he would hardly be in a fit condition to confer with his fellow-delegates on this important subject. I still hold this view. I fail to appreciate the idea of those who seem to think it the duty of the delegates to this convention to write out and publish their views before the convention meets. Under this plan, we would be able to have as many constitutions as delegates. What the people want, in my judgment, is an earnest consideration of and consultation upon these important questions, so that the finished work will represent the united wisdom and experience of the convention.

Mississippi is the pioneer State in this movement. In addition to the payment of a poll tax, there it is provided that only those can vote who have been duly registered, and only those can register who can read, or understand when read to them, any clause in the constitution. The decision as to who are sufficiently intelligent to meet the requirements of the understanding clause is exclusively in the hands of the registrars.

But to this plan, the objection has been urged with force that it perpetuates the very form of abuse which we are seek-

ing to escape. Elections by managers or registrars is not what we want, our aim should be for a correction of all evils which threaten the purity of the ballot and the morals of the people.

The provisions adopted in South Carolina require the payment of the poll tax assessed against him for the previous year six months before any election, and that the voter shall be duly registered. To be qualified for registration up to January 1st, 1898, voters must have been able to read a clause in the constitution or understand or explain it when read by the registration officer; and all who register subsequent to that time must be able to both read and write any section of the constitution, or else show ownership of property assessed at $300 or more, and the payment of all taxes assessed against him and collectable during the previous year.

In Louisiana and North Carolina, the methods of relief adopted are substantially the same, and require in addition to the poll tax clause, that the voter shall register in accordance with the provisions of the constitution, and only those are authorized to register who are able to read and write any section of the constitution in the English language, with the further provision, that no male person who was, on January 1st, 1867, or at any time prior thereto, entitled to vote under the laws of any State in the United States, wherein he then resided, and no lineal descendant of any such person, shall be denied the right to register and vote at any election, by reason of his failure to possess the educational qualifications prescribed, provided he registers within the time limited by the terms of the constitution, which, in Louisiana, is about six months, and in North Carolina, about eight years.

It is contended in defense of this provision, that while, in effect, it will exclude the great mass of ignorant negro voters it does not, in terms, exclude them, and applies generally to all classes of voters, without reference to their race, color or previous condition of servitude; that all negroes who were voters prior to January 1st, 1867, of whom, it is claimed, there were quite a number, could vote, and the descendants, whether slaves or not, of these free negroes were entitled to vote, and that these were quite numerous. And on the other hand, that white people born in other countries—emigrants, who cannot read and write, could not vote, nor could white people who were unable to vote in the State in which they lived prior to 1867, unless they were able to read and write. If it be said that this exception permits many more white people to vote than negroes, the answer was that this would be equally true of any proper qualifications which might be proposed. It would be true of an educational qualification,

and it would be true of a property qualification, the validity of which has never been questioned.

These provisions are justified in law and in morals, beause it is said that the negro is not discriminated against on account of his race, but on account of his intellectual and moral condition. There is a difference, it is claimed with great force, between the uneducated white man and the ignorant negro. There is in the white man an inherited capacity for government, which is wholly wanting in the negro. Before the art of reading and writing was known the ancestors of the Anglo-Saxon had established an orderly system of government, the basis in fact of the one under which we now live. That the negro on the other hand, is descended from a race lowest in intelligence and moral perceptions of all the races of men. As was remarked by the Supreme Court of the United States in the case of Williams vs. Mississippi (170 U. S. 213), quoting the Supreme Court of Mississippi: "Restrained by the Federal Constitution from discriminating against the negro race, the convention discriminates against its characteristics and the offense to which its criminal members are prone."

As stated by Judge Cooley, the right of suffrage is not a natural right, because it exists where it is allowed to be exercised only for the good of the State—to say that those whose participation in the affairs of the State would endanger and imperil the good of the State have, nevertheless, the right to participate, is not only folly in itself, but it is to set the individual above the State.

The right of suffrage in Massachusetts.

The election laws in Massachusetts contain substantially the same provisions as are embodied in the Constitutions of Louisiana and North Carolina just referred to. The election law of that State, as it stands today, provides that the voter must be able to read the constitution of the Commonwealth in the English language, and to write his name, except that "no person who is prevented from reading and writing as aforesaid, by physical disability, or who had the right to vote on the first day of May in the year 1857, shall, if otherwise qualified, be deprived of the right to vote by reason of not being able so to read or write."

While it is true that the provisions of this law do not extend to the descendants of the voter, yet it does not seem that on that acconut the principle involved would be affected.

The exception in the Massachusetts law was, no doubt, directed against illiterate and incompetent immigrants, whereas the provisions in the constitutions of Louisiana and North

Carolina were directed against illiterate and incompetent negroes, as well as foreigners.

But it is beyond the province of courts, it is claimed, to inquire into the motives of the law-making power; their function is confined to ascertaining the meaning and effect of the law drawn in question. These views have been elaborated and ably defended by Mr. Semmes, of Louisiana, and by Mr. Rountree and Senator Simmons of North Carolina, from whose able arguments I have greatly profited.

They find strong support in the opinion of the Supreme Court of the United States, in the Mississippi case, where it is said: "If weakness were to be taken advantage of, it was to be done within the field of permissible action, under the limitations imposed by the Federal Constitution, and the means of it were the alleged characteristics of the negro race, not the administration of the law by officers of the State. Besides, the operation of the constitution and laws is not limited by their language or effect to one race."—Williams vs. Mississippi, 170 U. S. III.

In Van Valkenberg vs. Brown, (13 Am. Rpts., 142), speaking of the limitation imposed upon the State by the recent amendments to the Federal Constitution, the Supreme Court of California says: "The mere power of the State to determine the class of inhabitants who may vote within her limits was not curtailed by the fourteenth amendment. The fifteenth amendment took away her power to discriminate aganist citizens of the United States on account of either race, color or previous condition of servitude, but the power of exclusion upon all other grounds remain intact.

Practically to the same effect is the decision of the United States Supreme Court in the case of Minor vs. Happersett, 21 Wall. 162.

The principle of inherited capacity is recognized even by the inspired Apostle, for you remember that Paul, in his epistle to Timothy, whom he was preparing to preach the glorious Gospel, refers to it even in the matter of faith, for he says: "I am persuaded that the unfeigned faith which dwelt in they grandmother Lois and in they mother Eunice dwells also in thee."

The great work before this convention will be to study and carefully consider this question. It is for this purpose that so many of the wise and conservative men of the State, including many of the ablest representatives of the bar, have been asked, for the time, to lay aside their business and the duties of an exacting profession, and consecrate to the service of the State all the talent, experience and ability they possess. I am not prepared to say whether or not this convention will approve the form of relief which has been adopted in our

sister States but I feel confident that there is intelligence and ability enough here to settle this question to the satisfaction of our people. We have inaugurated the movement and we must succeed. It is not to be expected that a reform movement like this will meet with universal approval, but when your finished work is submitted, and you present, as I believe you will, a practical solution of the evil conditions under which we now live, it will be appreciated and accepted by our people.

Authority to fund the State debt.

There are other questions which might be considered, but to which I shall be able to give only a passing notice. In view of the fact that a large part of the State's bonded indebtedness will soon mature, it is important and necessary that some provision should be made for funding the indebtedness of the State. Very able lawyers have doubted if there be any authority in the State under the present constitution to fund the State's indebtedness. At the time of the adoption of the present constitution the creation of debt on the part of the State, county and municipal authorities, had been abused to such an extent as to cause great alarm, and so the framers of the present constitution, in their anxiety to curtail this evil, seem not to have provided as fully as might be for the payment or the funding of the State's indebtedness by the issuance of new bonds or obligations. The provision of the present constitution on this subject is as follows:

"After the ratification of this constitution, no new debts shall be created against or incurred by this State or its authority, except to repel invasion or suppress insurrection, and then only by a concurrence of two-thirds of the members of each House of the General Assembly, and the vote shall be taken by yeas and nays and entered on the journal; and any act creating or incurring any new debt against this State, except as herein provided for, shall be absolutely void; provided, the governor may be authorized to negotiate temporary loans never to exceed $100,000, to meet deficiencies in the Treasury; and until the same is paid, no ne wloan shall be negotiated; provided, further, that this section shall not be construed as to prevent the issuance of bonds in adjustment of existing State indebtedness."

The power to settle the State's then existing indebtedness has been exercised under the debt settlement acts, and a doubt has been raised whether, under the restrictive terms of the present constitution, there be any power to issue new bonds to pay or fund the debt at its maturity.

There can be no doubt but that the State debt, under present conditions, can be funded at a greatly reduced rate of in-

terest, and at such a rate as will save the State largely more than the cost of the holding of this convention.

Municipal and county indebtedness.

Then again, there is the question of the authority of county and municipal governments to create debts totally beyond the resources which must be looked to to provide payment. The framers of the present constitution carefully stipulated a maximum rate of taxation, but made no provision against the creation of debt over and beyond the resources of the county or municipality. Consequently, improvident and unscrupulous officers have been able to impair the credit and fasten a load of debt upon cities and counties in different portions of the State, which has involved many of them in litigation and bankruptcy. Some just provision should be incorporated, limiting the power to create debt beyond the reasonable ability of the county or municipality to pay.

Education.

Then, again, there is the great question of education, which so vitally touches the interests of our people. I believe we should keep faithfully the pledges we have given not to increase taxation, but this should not deter us from making every effort to rid our State of the disgrace of its illiteracy. As Dr. Curry forcibly puts it, it will not do to say you are too poor to educate the people—you are too poor not to educate them.

Nothing has so retarded the rapid growth and development of our State as the absence of a well regulated system of public schools, so as to place within the reach of every child in the State, both rich and poor, the means of obtaining free of tuition fees, such instruction as will qualify him for the responsible duties of life.

The productive power of labor in Massachusetts is said to be nearly double that of the average for each inhabitant of the whole United States, and the reason assigned is the superior educational advantages she furnishes to her people.

You cannot expect skilled labor to enter our State, if by doing so their children are to be denied the means of a common school education. We must fight ignorance as we would fight malaria, for it is only by educating its people that a State can gain and maintain a proud position among the nations of the earth.

It has been urged in some quarters as a reason why this movement for a new constitution should be defeated that we propose to adopt a suffrage plan which will offer to the negro

an incentive to obtain an education, while the child of the white man will be without a like stimulus, because protected in his right to vote without regard to the density of his ignorance.

I do not understand that any delegate to this convention is pledged to any such legislation. We are pledged "not to deprive any white man of the right to vote," but this does not extend unless this convention chooses to extend it beyond the right of voters now living. It is a question worthy of careful consideration, whether we would be warranted in pursuing any course which would have a tendency to condemn any part of our population to a condition of perpetual illiteracy. Provisions of the constitution prescribing educational qualifications for voters as they affect those who now have no right to vote, but in the course of time will acquire the right are wisely intended to serve not as a curse, but as a noble stimulus to the acquirement of an education and to a proper preparation for meeting and discharging the duties of a citizen.

There is a strong reason why those who have fought the battles of the State—those who have been trained in the duties of citizenship, and possess character, judgment and intelligence which enables them to appreciate the responsibility it imposes, should not be denied the right to vote, even though they may lack the elements of an education, but it does not follow that it is to the interest of the State that the indulgence should be extended to the second generation—especially so when learning to read and write are within reach and so easy to obtain!

The States of Mississippi, South Carolina and Louisiana, in dealing with this great question, have rightfully considered that the betterment of facilities for securing an education for all the people was a necessary and essential part of any just and wise scheme for the regulation of the right off suffrage, and for the purification of the ballot.

There are other matters of importance I might refer to, but I have already continued much longer than was intended. Your work is before you. The responsibilities it imposes are great, but I do not doubt that you will discharge them with courage and with fidelity. In my judgment it is better, far better, to have accomplished something for the permanent and everlasting good of your people than to possess any honor which the State can confer.

Abou Ben Adhem awakened from a dream, found an angel writing in a book of gold the name of those whom love of God has blessed. "And is mine there?" he asked. But the angel answered, "Nay." "I pray thee, then," he said, "write me as

one who loves his fellow men." The angel wrote and vanished. The next night it came again, with a great awakening light, and showed the names whom love of God had blessed. And lo! Ben Adhem's name led all the rest."

EXHIBIT "B."

21 The Advertiser, Saturday, May 3, 1902.

Effort to Register Negroes.

The Dallas county registrars are now in the Fork. They expect to be in West Dallas next week, when, it is reported, an effort will be made to register negroes in several beats. The registrars can be depended on to do their duty and it matters not what kind of pressure is brought to bear on them they are going to register only those negroes who can comply with the requirements of the new constitution. It is said that the strongest pressure to register the negroes will be brought to bear on the registrars in Brown's and Pierce's beats. The number of negroes so far registered in Dallas is below thirty and it will be below fifty when they have finished their work, August 1.

The Advertiser, Tuesday, May 6, 1902.

The Morgan Registrars.

So far 3,640 whites and 35 negroes have certificates.

Decatur, May 5.—(Special.)—The county registrars have just completed their first round in the registration of voters in the county and give out the following figures: Total number of white men registered in the county 3,640; negroes 35.

Later on the board of election registrars will meet at the county court house here for the purpose of registering those entitled to registration, but who were unable to register heretofore on account of non-age, absence from home, etc. The dates of registration at the county court house will be as follows: One week in June, two weeks prior to November election, third week in November and six days before the 20th of December.

H. V. Cashin, the well-known negro politician and receiver of public money in the United States land office, at Huntsville, was here today and said that a vigorous fight would be made against the new constitution by the negroes of Alabama. He stated that the constitutionality of the State constitution would be tested and that the case would be taken up to the

United States Supreme Court if necessary. He intimated that the board of county registrars had violated their oath of office in refusing to register certain ex-soldiers of the civil war.

The Advertiser, Saturday, June 21, 1902.

22 *Marengo Registration.*

Very few negroes are on the lists.

The Advertiser is informed by a prominent citizen of Marengo county that "the reports from Marengo county as to large registration of negroes are untrue. I saw one of the registrars two days ago and questioned him about it. He vehemently denied it and said in a few days the full report would be given out. In my own beat, which has a lareg negro vote, only one negro registered and he by every requirement of the new constitution was entitled to it."

The Advertiser, Sunday, June 22, 1902.

Marengo Registration.

To date 1,567 white, 306 blacks have received certificates.

Demopolis, June 21.—(Special.)—In reference to the report that many negroes are being granted certificates by the Marengo county registrars, Hon. B. F. Elmore, solicitor of this judicial circuit, today said:

"Having seen a good deal in the State papers about the 'wholesale registration' of negroes in this county, and desiring to satisfy myself on this question, I have seen the chairman of the board of registrars and obtained from him the true facts as to the registration of both whites and blacks in Marengo county up to date.

There have been registered 1,567 whites, and 306 blacks. The population of Marengo county, according to the last census, is 38,315; of this number, about 11,000 are whites, and about 27,315 blacks. The voting population being about 2,200 whites, and about 5,463 blacks. It will be seen that only 5.6 per cent of the negroes of voting age have been registered. No person has been registered who did not possess necessary qualifications under the constitution.

Registration in Dallas.

Up to date the Dallas county registrars have issued certificates to 963 voters in the city of Selma and 942 outside the

city, making a total of 1,878. Of this number only forty-seven are negroes. It is hardly thought by the registrars that the number will go above 2,000. Of those registered several hundred have not paid their poll taxes, and it is thought that not over 1,500 or 1,600 votes will be cast in the next Democratic primary. The registrars are doing their duty faithfully and are carrying out the spirit of the new constitution in refusing to issue certificates of registration to only those who can comply strictly with the requirements of the new organic law.

The Advertiser, Opelika, July 24.—(Special.)

23 The registrars have almost completed their work. Over 2,200 voters have been registered, all white except one. The registrars have performed their duties faithfully and efficiently and Lee will be a white county in the future.

The white registration amounts to more than one hundred and eighty thousand.

The Advertiser presents below the registered vote of sixty-four of the sixty-six counties of the State. The two counties not heard from are Cherokee, and Winston. The registration of the other counties foots up 179,134. The two other counties have, according to the census of 1900, 5,768 white voters. About 80 per cent of the white vote has registered and taking that proportion for Cherokee and Winston, would be about 4,100, and this, added to the other, would make a total registration of 183,234. The registration of negroes will not foot up over 2,500, so that we have a registered white vote in Alabama of at least 181,000. The tables below give total registration and the number of white voters by counties according to the census of 1900:

Counties.	Registered voters.	White males over 21 by census of 1900.
Autauga	1,450	1,541
Baldwin	1,241	2,304
Barbour	2,479	2,912
Bibb	2,298	3,044
Blount	3,219	4,444
Bullock	1,180	1,429
Butler	2,558	2,787
Calhoun	4,518	5,565
Chambers	3,050	3,457
Cherokee	.....	3,863
Chilton	2,467	2,908

Choctaw	1,422	1,710
Clarke	2,046	2,681
Clay	3,109	3,226
Cleburne	1,939	2,644
Coffee	2,750	3,517
Colbert	1,956	3,056
Conecuh	1,837	2,126
Coosa	2,200	2,343
Covington	2,451	2.817
Crenshaw	2,724	3,066
Cullman	3,841	3,774
Dale	3,131	3,497
Dallas	2,291	2,525
De Kalb	4,228	4,855
Elmore	3,050	3,215
Escambia	1,350	1,664
Etowah	3,680	5,189
Fayette	2,424	2,701
Franklin	2,123	3,036
Geneva	2,690	3,367
Greene	730	867
Hale	1,206	1,385
Henry	4,750	4,920
Jackson	4,076	5,958
Jefferson	14,681	23,832
Lamar	2,340	2,724
Lauderdale	3,162	4,351
Lawrence	2,137	2,776
Lee	2,328	3,018
Limestone	2,310	2,871
Lowndes	1,080	1,138
Macon	980	1,046
Madison	4,197	5,937
Marengo	1,940	2,140
Marion	2,203	2,746
Marshall	3,637	4,606
Mobile	6,590	9,378
Monroe	1,605	2,319
Montgomery	4,428	5,471
Morgan	3,726	5,185
Perry	1,556	1,599
Pickens	2,189	2,416
Pike	3,092	3,623
Randolph	3,135	3,462
Russell	1,118	1,453
St. Clair	2,583	3,416
Shelby	3,048	3,662
Sumter	1,219	1,419

Talladega	3,064	3,990
Tallapoosa	3,929	4,203
Tuscaloosa	3,775	5,222
Walker	4,125	4,812
Washington	993	1,416
Wilcox	1,500	1,707
Winston		1,905
Total		232,294

In a number of counties not a negro was registered. In some others total registration was reported without any statement as to proportion of colored registration. The counties which reported negroes registered and the number, are as follows:

Baldwin, 10; Barbour, 44; Bibb, 47; Bullock, 10; Butler, 1; Clarke, 62; Chilton, 4; Choctaw, 19; Colbert, 27; Conecuh, 2; Covington, 3; Dale, 10; Dallas, 61; Escambia, 34; Etowah, 23; Franklin, 12; Hale, 14; Lamar, 7; Lauderdale, 70; Lawrence, 31; Lee, 4; Limestone, 10; Macon, 52; Madison, 116; Marion, 7; Mobile, 131; Montgomery, 47; Monroe, 45; Morgan, 35; Pike, 20; Randolph, 15; Russell, 171; Shelby, 14; Sumter, 54; Talladega, 60; Tallapoosa, 2; Tuscaloosa, 165; Washington, 78; total, 1,517. It is not probable that over 2,500 were registered in the entire State.

Filed Sept. 3, 1902. J. W. DIMMICK, *Clerk.*

EXHIBIT "C."

24

Official Report of the Proceedings of the Constitutional Convention of Alabama.

Fifty-second day.

MONTGOMERY, ALA., TUESDAY, *July* 23, 1901.

The convention met pursuant to adjournment, was called to order by the president, and opened with prayer by Rev. Dr. A. L. Andrews.

The PRESIDENT: The special order this morning will be the consideration of the report of the Committee on Suffrage and Elections.

Mr. Coleman (Greene) sought recognition.

Mr. OATES: I rise for the purpose of making an inquiry in regard to this doscussion.

The PRESIDENT: Does the gentleman from Greene yield?

Mr. COLEMAN: If I knew what his inquiry would be.

Mr. OATES: From the rule which I understand was adopted in regard to it, I do not understand whether there is to be a preiminary general discussion before taking up the measure for consideration section by section. The course in the progress of the consideration of bills and ordinances is to agree upon a time for general discussion and when that ends, to consider the measure by sections under a more limited and restricted time for speeches. I would like to hear from the delegate from Greene and to have the ruling of the chair on that proposition, I think we would not lose time, but would probably save time to have a general discussion say of an hour and a half or two hours, or less as the case may be, preceding the taking up of it by sections. I make that suggestion in the interest of fair discussion, and I think it is in the interest of economy of time. I believe we will save time by it.

Mr. COLEMAN: I had thought that this question would be considered differently from the rule which we have adopted in the consideration of other articles. I do not know where a general discussion would lead to. So far as the committee knows, the agreement of the committee was unanimous except upon one or two questions. Of course, the whole convention will have an opportunity to present its views as it sees proper, but I had supposed that the article on Suffrage and Elections would be treated as the other articles: that there would be a statement by the chairman—a mere statement—and that we would then proceed to consider it section by section. I have no objection myself personally.

Mr. OATES: I make the suggestion because of the universal interest in the measure and its importance. It may be that time would be saved in this way to have a general discussion. Of course, a limit of thirty minutes has been fixed by the order of the convention. But if we have a general discussion, some delegates who have not served upon this committee and have not heard the discussion of the various questions might from a general discussion get more fully into it, and probably less time would be consumed in amendments to sections as we proceed than would be if no such general discussion proceeded.

Mr. COLEMAN: I believe if we undertake to pursue that course, we will be discussing this report for a week or ten days without making any progress at all. With the number of delegates here having different views upon the wording and principles involved all the way through, there would be no end to the discussion.

Mr. OATES: My suggestion was made hoping that the delegate would make a motion to put a limit upon it, to have a general discussion not to go beyond a certain time, and not to turn the convention loose on it as a general debating society.

Mr. COLEMAN: I will ask then, who shall engage in this discussion? Is the chair to pick out certain men to discuss it, or the chairman or the whole convention? How could we make any progress at all?

Mr. OATES: I will state that the course pursued, I know in the Congress of the United States (a pretty good authority) is that where there is a difference of opinion and gentlemen desire to discuss the question, they give their names to the presiding officer and he will take a list of them. Of course, a good many get in, but they cannot run beyond the time fixed.

Mr. BEDDOW: I make the point of order that there is nothing before the House.

Mr. COLEMAN: This is the hour appointed for the consideration of the report of the Committee on Suffrage and Elections.

Mr. SMITH (Mobile): There has been some discussion between one or two gentlemen and myself as a member of the rules committee. Conferring, however, with the chairman of this committee with the view of determining what will be the proper time for the consideration of substitutes for the entire article that will be presented, and thereby preventing interruptions, I understood under the rule that the proper time to introduce a substitute for the entire article would be after the article had been passed upon section by section, and was offered to the convention for adoption as a whole, but gentlemen interested in substitutes desire that question be presented, so there would be no confusion, and these substitutes would not be offered during the discussion, and if permissible to ask the chair whether my understanding of the rule is not a correct one?

The PRESIDENT: The rule on that question, as the chair understands it, is that the friends of the measure will have a right to perfect it, amend it and put it in whatever shape they desire before the convention would entertain a substitute to the entire article. After the convention has considered the article and put it in such shape as desired, a substitute would then be in order to the entire article.

Mr. COLEMAN: That, Mr. President, is my understanding of the rule.

Mr. BANKS: After an article or ordinance has been completed, would it then be necessary to reconsider the whole ordinance before a substitute for it could be introduced?

The PRESIDENT: The chair thinks not. The attention of the convention is called to the fact that the substitute would be offered. The chair will try to conduct the proceedings in such a way that a motion to reconsider will not be necessary.

Mr. LOWE (Jefferson): That was about the question I was rising to. I introduced this morning an ordinance covering this matter with the view that it might appear in the stenographic report, and in order that each member might have an opportunity of considering it this morning. In this report, as I understand it, it will be practically impossible to amend it section by section, because several sections apply to and cover the same matter and I thought it would be better that the convention should have the advantage of the discussion coming from the members of the committee who had so long and carefully and patiently considered this question, and that, after having the benefit of that discussion, a substitute might then be offered without requiring a suspension of the rules, and as I understand the chair the substitute would be in order at the close of the debate, and the action of the convention upon the report of the committee without a suspension of the rules?

The PRESIDENT: Yes.

Mr. JONES (Montgomery): If a substitute were offered, would that be treated as an amendment so as to limit the debate to ten minutes?

The PRESIDENT: Under the rule as reported in this case, the debate has been extended to thirty minutes and a substitute would be regarded as an amendment.

Mr. LOWE: The thirty minutes rule?

The PRESIDENT: Yes sir. The chair does not see how we can avoid a motion to reconsider, unless there is a special rule brought in on the subject, except by pursuing this course; that a section of the report would be read and amendments would be entertained and either accepted or rejected and when the convention has offered and considered such amendments as it may desire, without finally adopting the section proceeding to the next section, and so on through the article, and then the question would be upon the adoption of the article as read.

Mr. SAMFORD: It occurs to me in that connection that with a matter so important as this and so lengthy, it is going to result in endless confusion, because, if you go through this article without adopting it, section by section, when it comes to the offering of a substitute for the entire article, I fail to see how it can be confined to a substitute to the entire article. But why would not every section be open to any substitute or any amendment that the convention might see fit to propose? And it occurs to me that we are going to get among the breakers along this line if we do not make some special preparation for it, if special preparation is necessary. I make that merely as a suggestion.

The PRESIDENT: It might be well to adopt some special rule on the subject. The committee on rules might bring in some rule to the effect that the adoption of this article section by section would not cut off a motion for a substitute for the entire article.

Mr. LOWE (Jefferson): It was in view of that parliamentary difficulty as I understood it that in that consultation the gentleman from Mobile, from the committee on rules, suggested an agreement. If the convention unanimously agree, there need be no report from the committee on rules. The gentleman from Mobile suggested that it would be agreeable to the different contending interests here that upon the conclusion of the consideration of the report of the committee that then the substitute might be offered to the report of the committee as amended, as it stands upon the conclusion of the consideration of the report. Of course, that substitute would be open to amendment. If this convention now agrees to that proposition, there is no necessity for a report from the committee on rules; however, I have no objection to the matter being referred to the committee on rules, I simply desire to reserve the right to myself offer a substitute to the report of the committee, it being absolutely impossible to amend it section by section, because there are many sections bearing upon the same subject, and if the convention now agrees to the proposition as stated by the gentleman from Mobile, from the committee on rules, it will be the order of business as I understand it.

The PRESIDENT: It seems to the chair some provision should be made on that subject. The chair will entertain a motion.

Mr. COLEMAN: If the president and the convention will consent, I move that we dispense with business for five minutes and a rule can be prepared and presented to the convention which will meet the end and difficulty suggested, and I move that we suspend if necessary for five minutes.

Mr. FITTS: I offer this resolution.

The PRESIDENT: The gentleman from Greene moves that business be suspended for five minutes, in order that some rule be prepared to cover the question.

Upon a vote being taken, the motion to suspend was carried, and a recess taken for five minutes.

Mr. SMITH (Mobile): I desire to notify the members of the rules committee that the committee will meet in the senate chamber immediately.

Mr. FITTS: I offer that resolution and ask that it be referred to the committee on rules.

The resolution was handed to the committee on rules, but not read.

The committee returned at the end of the recess.

Mr. SMITH (Mobile): I am instructed by the rules committee to offer the following resolution:

The clerk read the resolution as follows:

Resolved that the article reported by the committee on suffrage and elections be considered, adopted or rejected section by section and after every section has been so considered and adopted substitutes for the entire article may be offered and acted upon without any motion to reconsider the prior action of the convention."

Mr. SMITH (Mobile): I move the adoption of the resolution as reported by the rules committee.

Upon a vote being taken the resolution was adopted.

Mr. COLEMAN (Greene): Mr. President and delegates of the convention; it is not my purpose to undertake to make a strictly legal argument at this time upon the various provisions contained in the report of the Committee on Suffrage and Election, but rather to state the conditions which confrout us, the circumstances which led to the calling of this convention, and the way in our opinion to relieve the people of the State of Alabama from the great burden that now rests upon it. I think it pertinent in this connection, in order that our conditions may be understood, not only at home but abroad, to review, by a statement of facts, which transpired many years ago, that the people who were disposed to criticise us in our conduct may better understand what we have passed through and the end which we aim to attain. That this convention was called by the Democratic party cannot be denied and that it was made a party measure, and as such, sustained by the party. The duty rested with us to construct an organic law which will operate fairly and justly to every inhabitant in this State without regard to party or previous condition. I do not believe that the article prepared is properly understood. There has been an effort made to impress the people of Alabama that the delegates of this convention were under no obligations or pledges to the people of Alabama. It should be remembered that the three conventions of Alabama which last assembled as a convention of the Democratic party declared that no white man should be disfranchised except for crime. Mr. President and delegates of the convention, it has been said that this provision was hastily adopted, without deliberation. I cannot conceive how three conventions, successive conventions, could unanimously adopt the same provision without having attention called to it, this provision, or the charge made that action was without due consideration. It may not be improper to state here that the platform

adopted by the convention which last assembled in Montgomery was not framed without consideration and deliberation. Present at that time were two members, one a member of Congress, and an ex-member, a distinguished editor of a leading paper in this State and leading delegates from various sections of the State. It may not be improper to state here that the chairman of the committee, instead of writing the word "white man" wrote the words "qualified voted," in order to obviate some of the difficulties and troubles which seemed to have arisen since that time, and it was after due consideration, due deliberation, that the committee on platform inserted the words "white man." Those are the facts in regard to the preparation of the pulatform which was presented to the convention. In addition to that, Mr. President, at a time when it seemed that the calling of this convention was in danger, hanging between adoption and rejection, the chairman of the campaign committee issued a circular to every member, and they met in pursuance to that call in Birmingham, and in order that the people of the State might be assured thereof without a dissenting voice, pledged themselves to stand by the pledges made to the people in convention assembled, and it as, I have no doubt, that assurance which succeeded in calling together the convention that is now assembled. Under these circumstances, Mr. President and gentlemen of the convention, I cannot see, myself, how any man can claim exemption from these obligations, except he be convinced in his own mind that to stand by them would involve his honor under the oath he has taken to support the Constitution of the United States. I would ask no man to violate his oath, but if he can comply with the oath that he has taken, and perform his pledges to the people of Alabama, I see no escape from the duty imposed upon him, not only by the successive meetings of the Democratic party in convention assembled, but by reason of his personal pledge to carry them out. And I think, Mr. President and delegates of the convention, that a delegate should examine, impartially, without bias or preference of opinion, desiring to arrive at the truth, and the truth only, as to whether or not he can comply with these pledges and at the same time not violate his oath. I do not think that he should consider it in any other light but simply the light is arriving at the truth, and the truth only. If, therefore, the Committee on Suffrage and Elections has presented to this convention a system upon the subject of franchise which will enable it to comply with the pledges and at the same time not violate our oaths, it seems to me it is our bounden duty to do so. Mr. President and delegates of the convention, this government was founded by white people. Its institutions have been preserved and

enforced by the white race of this country, and it is within the past few years that the negro became a qualified voter, and citizen of the United States. In most of the States of this Union the proportion of such voters is so small that their influence is not felt in the general election. It is only in the southern States that he has become an important factor, and under the present laws is a menace to our civilization, our happiness and prosperity. I would not violate any provision of the constitution, but it is my opinion that we should go to the utmost limit allowed us to continue in control of this State and its political interests, that race of people which so long has preserved its institutions and brought us through so much trouble, to our present prosperous condition. (Applause.) I hope the convention will bear with me as I proceed to show that this conclusion is not reached by any prejudice against the negro. There are but few, comparatively, of the old slave-holders who are alive at this time, and who are present in these deliberations. Mr. President, I am not ashamed to say that I was among those few. Not only myself, but my ancestors before me were slave-owners in this State. The third generation back was one who in his feeble way undertook and put at stake his life in order to give validity to the Declaration of Independence, and which resulted in the framing of the Constitution of the United States. Protected in his rights, as others were, no man, read in the history of his country, will undertake to say that without such provision the Constitution of the United States would ever have been adopted. We felt sure, and so did they, that they had a right to regard these persons as property, and that it was secured by the organic law of the country. So for as the moral question arises, I am one of those old fogy men who believe in the inspiration of the Scriptures, and we are told that Abraham was a friend of God, and Moses was an inspired law-giver, and until some higher authority than the Creator and omniscient God himself shall arise and declare a different code of morals, I am one prepared to stand justified by the record of that book. Now, Mr. President and delegates of this convention, bear with me a few moments. Born on a plantation, raised up with the negro, I have had an opportunity to know his weak points and his good traits. Mine may have been the history of others, but I remember well during the civil war, or the war between the States, sending my negro man from Vicksburg, surrounded as it was with Federal troops, with a letter to my wife, and he carried it safely home, and I never doubted that he would do so. I wish to say in behalf of this race that at the battle of Missionary ridge, when I had the misfortune to be shot down, he was inside of the Federal lines for two or three days, and he worked

himself out, and found me in the hospital, and waited upon me for three months, and accompanied me home. I wish to say, moreover, for these people that upon my plantation for the great part of the time there was no white man but a negro was in command as superintendent, and my wife and children apprehended no trouble or danger whatever from our slaves. He was as loyal as a man could be. This is the history of the negro as a slave. In 1865, the year that emancipation became effective, I had the fortune to be elected solicitor of the fifth district, including the counties of Greene, Marengo, Sumter, Pickens, Choctaw, where the negro was most numerous, or perhaps as numerous, as in any counties in this State in proportion to population. As solicitor at that time I had every opportunity to judge him and his characteristics, and I venture to say that during that time we heard of not a single case of assault upon our fair women, or of murder, waylaying, or other violations of the law by them of an aggravated character, except that of theft, which was then characteristic of the race. That was his attitude from the year 1869 to the days of reconstruction. At that time the carpet-bagger arose, and the scalawag in this country, and I do not wish to be understood as saying that all of those who came from the North, and designated as carpet-baggers were bad men, but the majority of them who came here, came not for a good purpose. Then we had the midnight meetings. Thousands would gather upon the word sent; inflammatory speeches were made to them, and this peaceful race, within a short time, had developed the character of savages. The race which had been quiet so long converted this whole country into pandemonium. I have seen, with my own eyes, a thousand of them around a ballot box, and not a white man was permitted to reach the ballot box. I have known, delegates of this convention, 1,500 armed negroes to enter a little village on one occasion for the purpose of creating consternation and fear among the whites. I have known a judge trying a case, and a Republican judge at that, and under the testimony came to the conclusion that the defendant should be held or committed for trial. I have known these defendants to rise from their seats and deliberately shoot the judge through the head, scattering his brains upon the floor. I know, and the parties are living now, who, dressed in Federal uniforms met by appointment known leaders of the negroes and they declared that they were ready to arise with the axe and the torch and burn and slay men, women and children. I have been told by a delegate upon this floor that he knew of a negro boy 16 years of age who voted sixteen times, once for every year of his age, and defied arrest or investigation under the laws passed in reconstruction days when that race was in power.

We know that our State was pillaged, our counties strangulated, and the main purpose seemed to be that of plunder and destruction. Now I mention these facts for this purpose. Here was a peaceable race of people, obedient in law, and here was pandemonium raised when they were no longer restrained by law, and were inflamed and led. Now what happened at that time?

Mr. GRANT (Calhoun): Will the gentleman allow me to interrupt him? I just want to say—

The PRESIDENT: Does the gentleman yield?

Mr. COLEMAN (Greene): I am discussing the question at this time.

Mr. GRANT (Calhoun): I have a very perfect recollection of all those kind of performances—

The PRESIDENT: The gentleman will be seated.

Mr. COLEMAN (Greene): At that time, and under those circumstances arose the organization that was denominated Ku Klux. This organization was guilty of excesses and were not countenanced. It soon disappeared. That was the condition of this country when the people resorted to a more peaceful and effective method securing predominance in this State through the ballot box. I wish the fact of our condition to be known, and while there are those of us alive yet who know these facts, I think they should not be forgotten. Now if the delegates will consider, since that time the white race has predominated in this State, and the people who have voted at all elections, and preserved us, have been the white race, and that without regard to literacy or illiteracy. They have all voted, and they have voted from the first establishment of government in this country down to the present time. Contrast these two people. See what condition we were in when the negro predominated in this State, and made our laws for us, and enforced them, and see our condition when it passed from them back into the hands of the white men. Can anybody look upon those two picturee and come to any conclusion other than that the negro, as a race, is incapable of self-government; and has no appreciation of the duties and obligations of a citizen of a Republican form of government or that the white man, by reason of belonging to the white race, or his education, or some other characteristic, is competent to rule and can be trusted with the State's government with perfect safety.

The facts cannot be denied, and seem to me sufficient to satisfy everybody of the truth of the preamble to the platform of the Democratic party, that the one race is capable of self-government as a race and the other as a race should not be trusted with the right to vote. Now, Mr. President, and dele-

gates of the convention, having these matters in view, having our pledges before us, we have tried to frame an article upon suffrage, which would preserve our institutions, and we have at the same time tried to comply with the fifteenth amendment of the constitution, and have admitted to the exercise of suffrage every competent negro in the State. I do not doubt, and I have heard no man yet say, that every person of the negro race who ought to vote has not been admitted to
26 vote, and the only question that seems to trouble some of our people is whether the white man shall vote, and not the negro. That is what confronts us today. I think it is our duty as Democrats, and as citizens of this State, to comply with our pledges, and admit to the exercise of the franchise every white voter if it can be done legally. So far as the details of the plan submitted are concerned they will come up as we proceed section by section. The committee is not partial to anything they have said or written in the article. We have presented to you that which seemed to us the best solution, but if any man has anything better than that which we have presented to you, no one will join in its adoption more readily and satisfactorily than myself. I know full well, delegates of this convention, that during the few years that will be spared to myself and to men of my age, we will be sure to maintain our supremacy and good government. But we look to conditions that may exist fifteen, twenty or thirty years from now, when the old men will be gone, and when the question will be for the younger members of this convention, and our children who have not yet arrived at the state of manhood. That is what we are looking out for; that is what we desire to provide for, and I shall most sincerely invoke your earnestness and ability in solving this great question, which is now under consideration. We do not believe that it is an insult to confer the franchise upon the descendants of those who wore the gray. It is recorded that Moses of old said to the children of Israel, "Teach the statutes to your children as you lie down; teach them as you walk in the way and as you get up;" and we believe that the old Confederate soldier has taught his children to love their country and its laws and government. Mr. President, it is no dishonor to say to a Confederate soldier's son that the State recognizes that you are a better citizen and have a better right to vote than the negro who can read and write. I think it is due him, and I would rather this right hand of mine would become palsied rather than it should write "disfranchise" against one of their names. I would rather my tongue would cleave to the roof of my mouth before I would pronounce so unjust a sentence against him. Those are my sentiments upon this question, and I have no doubt, as a lawyer who has investigated the case, that

his enfranchisement is perfectly constitutional. Mr. President, I may have been betrayed into saying too much, and I will not say anything more——

Cries of "Go on, Go on."

Mr. COLEMON: Now, then, to refer rapidly to another provision. Men who have objected to what might be called the "understanding clause" surely have not apprehended its true meaning. Surely, they have not understood that it embodies the Federal law of the United States with reference to naturalization of foreigners; surely, they have not considered that before that could be declared unconstitutional, the courts would have to declare unconstitutional the laws which have been adopted by Congress, applicable to the naturalization of foreigners. The thing that troubles me, is not what is now to transpire or to transpire within the next few years, but that which comes after that, and whether the permanent requirements are sufficient or not to protect the people in their rights, the civilization of this country, and the happiness of the people, in the permanent plan. That prescribes a property qualification, an understanding qualification to read and write, and it also provides for those who have been regularly engaged in some lawful employment for a year. There never was a sentence, or provision, more perverted, or less understood, than that provision in the article reported by the Committee on Suffrage and Elections. The committee was at least a day and a half or two days selecting those words. They used the word "engaged" because it had been often interpreted by the Supreme Court of this State, and it is not, as I have seen in the papers, a provision which requires not only that a man should always be employed, but that he should have some profitable employment. There is nothing further from its meaning. We all know that a man is engaged in business when he holds himself out as a party ready for employment. As has been often illustrated in the case of a lawyer—he is engaged in the practice of law whether he has a client or not. A physician is engaged in the practice of medicine if he holds himself out as a physician and is ready. That is his business without regard to the number of patrons that he may have. The purpose of the qualification was to reach people passing from place to place without employment—tramps, as it were, though not strictly within the definition of the word tramp, as defined in the code of Alabama. I would willingly accept any substitute or amendment which could reach or supply the end intended by that provision. Mr. President, I believe I will say nothing more at this time, and move that we take up this report section by section in accordance with the rules of this convention.

The PRESIDENT: In the opinion of the chair the rule adopted this morning will cover the object intended to be secured by the motion just made. The Secretary will read the first section.

The Secretary read section 1 as follows:

SECTION 1. Every male citizen of this State who is a citizen of the United State, 21 years old or upwards, not laboring under any of the disabilities named in this article, and possessing the qualifications required by it, shall be an elector, and shall be entitled to vote at any election by the people.

Mr. BEDDOW: I desire to offer an amendment.

The Secretary read the amendment as follows:

"Amend by adding after the words 'United States' in the first line of Section 1, the following words, 'and every male person of foreign birth who before the adoption of this constitution, may have legally declared his intention to become a citizen of the United States.'"

The PRESIDENT: The question will be upon the adoption of the amendment offered by the gentleman from Jefferson, Mr. Beddow.

Mr. BEDDOW: Mr. President, I feel safe, after hearing the learned argument of the chairman of this committee, that this amendment will be adopted without a dissenting voice. As he has truly stated in his argument, the Democratic party of this State is pledged in framing the suffrage article for our new constitution to do it in a manner so as not to disfranchise any white person now entitled to vote under the present constitution. If Section 1 is adopted as submitted by the committee, there are no doubt thousands of persons throughout the State of Alabama, who are good white citizens, who have declared their intention to become citizens of the United States under the laws made and provided therefor, that will be deprived of the right of suffrage. In order to post myself upon this question, I put myself in correspondence with the clerks of the courts of record in my county, and I find that in the county of Jefferson there are at least 1,500 white citizens who have declared their intention to become voters, who have not, by reason of the law requiring a residence of five years, been enabled to perfect their citizenship. I feel sure that no member of this convention has any desire whatever to go back on the pledges so recently made by us to the people of this State, and that this amendment as offered by me will be adopted. By scanning the amendment, it will be seen that it relates only to those who at the time of the adoption of this constitution have declared their intention to become citizens of the United States. The amendment will speak for itself.

Mr. WATTS: I would like to ask the gentleman a question. I understand you to say there are 1,500 citizens who are willing to become citiezns of Alabama, but for the inhibition of the law declaring against their voting until they have been here five years.

Mr. BEDDOW: No, sir; under the law, the intention has got to be declared, and they cannot perfect their citizenship for five years.

Mr. WATTS: But does not the present Constitution of Alabama give such citizens the right to vote on declaring their intention?

Mr. BEDDOW: It does: yes—but under Section 1 of this article, they would not be entitled to vote if this constitution is adopted.

Mr. LOWE (Jefferson): I rise to second the amendment of my colleague, the gentleman from Jefferson. I did not care to interrupt the argument of the distinguished chairman of the committee, because it appeared to me that the first section of the report of the committee does not support what is said. I do not care to tell him we were unwilling for one side of this controversy to get up a monopoly upon the wearing of the grey. I did not care then to say that no one side of this controversy should have a monopoly upon an appeal to history and the recollection of reconstruction times. I thought, Mr. President, as the report of the committee of which the distinguished gentleman from Greene is chairman, was read, it would be found how far the inconsistency existed between the remarks which the gentleman submitted, in so pathetic a manner, and the report and the language that the gentleman sought to put not upon the statute books, but in the organic law of Alabama. The gentleman referred to the declaration often repeated in Democratic conventions, that no white man was to be disfranchised. There is no such provision anywhere in the report of this committee, and the first section of the report of the committee aims to disfranchise those now entitled to vote in Alabama. Mr. Chairman, I second the adoption of the amendment of the gentleman from Jefferson.

Mr. CUNNINGHAM: I had in mind precisely the same amendment that was offered by my colleague from Jefferson, Mr. Beddow. I shall not take up the time of the convention in discussing the merits of this question, except to say this: I believe that the inhibition resting upon us in regard to the disfranchisement of white men applies to those citizens of foreign birth who, under the existing constitution, have declared their intention to become citizens of the United States, and, therefore, have been permitted to vote in State, county and municipal elections. If I understand the gentleman's

amendment aright, it does not apply to citizens of foreign birth who may hereafter undertake to qualify as citizens in this State. I will ask the gentleman from Jefferson if that is not his amendment?

Mr. BEDDOW: That is my amendment.

Mr. CUNNINGHAM: It applies only to those who are here now, and I sincerely hope, Mr. President, and I appeal to this convention, to adopt that amendment. I believe it will be a mistake not to do so, because you undoubtedly knock out a great many white citizens of this State who are now qualified voters. In conclusion, let me say, Mr. President, that for the last eighteen years I have had a very large, and rather extensive, personal experience and business relationship with the foreign population in Jefferson county, and during that entire time, Mr. President, to my personal knowledge, not exceeding half dozen have been convicted of crimes in the State of Alabama. Only about three have reached the penitentiary of your State and possibly as many or a few more have been sentenced to hard labor for the county. In their debt-paying capacity, Mr. President, there is perhaps no one class of citizens in the State of Alabama that excels them; their credit, as a rule, is good; they pay their debts; they are law-abiding citizens. I will say the majority of them at least vote the ticket of the dominant party of this State. Already there is some dissatisfaction among this class of our people who believe they are indeed disfranchised under the first section of this ordinance, and I sincerely hope the committee will accept this amendment and urge its being adopted by this convention.

Mr. LONG (Walker): I am heartily in favor of the amendment offered by the gentleman from Jefferson. I can see no reason why foreigners from the land from which our forefathers came should be disfranchised and others should be infranchised by simply wearing the gray. I cannot conceive of any banks that would honor the draft of a Confederate soldier and yet recognize the rule of honoring the draft of the son of the Confederate soldier. I cannot conceive why the people in the county of Jefferson, and in my own beloved county of Walker, who have come there to gather the crops that nature makes, and toil beneath the surface of the earth, should be disfranchised because they have not been in the State of Alabama five years. I can testify to their virtue, their manhood, and their right of self-government. I can testify further to all that is said, that these people are white people, coming from the land that bore us long, long centuries ago, and from which our forefathers came from across the sea. If we intend to adopt a war measure, why not go back and adopt European laws as well as the laws of the United States. Why should we say that foreign-

ers are required to reside in the State of Alabama for five long years, when a simple fellow or something of the kind of a Confederate soldier, has not the same restriction placed around him? I appeal in justice and for humanity's sake, to this convention not to ignore the right of any white man in my country to vote, who has worked way down beneath the soil with a lantern on his head guiding his way, and disfranchise him under this first section of the report of the Committee on Suffrage. If we want to do justice to the white man, let us put in the word "white" right in front of the word "male," between the word "male" and "citizen" in the first section of this article. I for one, am in favor of, and strictly in favor of, and will vote for, any amendment to that end, and will take my medicine like a man. We should say every white male citizen of the United States, or a white person who has declared his intention of becoming a citizen shall have the right to vote, and no one else. I am in favor of putting that in, and of meeting the issue like men. There has never yet been a man in the halls of Congress that has dared to deny the right of a State to limit the right of suffrage. They have put restrictions around it, and provided for punishment for those States that violate it. What would be the effect if we should put in there "every white male citizen of this State, and every white male citizen of the United States?" What would be the effect? We would simply go up and plead guilty to violating the fourteenth and undoubtedly the fifteenth amendment of the constitution, like a man before
27 the bar of justice that comes up and pleads guilty of carrying concealed weapons. What is the penalty? Why the penalty in this case would be to reduce our representation in the electoral college, and in the Congress of the United States I would rather have one white man to represent Alabama then than to have nine now, if we had the words "white male citizens" in our constitution. I am willing to vote for it. I despise a makeshift. I detest it. I am willing to come up to the rack and take my fodder, or no fodder, as the case may be. I do not like a makeshift, and I don't like this makeshift which disfranchises any of the white people of Alabama. Put the word "white" in there and I will support it. Let us take our medicine like men. Let us go to the Congress of the United States and say that Alabama, the first State upon the roll of the United States, recognizes only the white people to vote. Let us do that like men and take the penalty. I cannot see any objection thereto.

Mr. GRANT: Why don't you invite Mr. Pettus to offer his amendment for this thing and vote for it?

Mr. LONG: How is that?

Mr. GRANT: Why don't you ask Mr. Pettus to offer his ordinance introduced some days ago and you can vote for it.

Mr. LONG: Mr. President, I have not the honor of knowing to what the gentleman refers. I know nothing about Mr. Pettus's ordinance, but if Mr. Pettus's ordinance stated my proposition, I stand here today as one of 155 men in this constitutional convention who is ready, willing and anxious to vote for it.

Mr. GRANT: Why don't you ask him to introduce it now?

Mr. LONG: Now, Mr. President, what I do object to is the action of the white people here asembled, that will disfranchise many men in my county simply because they have not been residents of the United States for five years. I believe in justice to those who are entitled to it. I believe when the ark landed long centuries ago and the descendants of Noah started out, that Ham was cursed, and I believe that this is a white man's country, and that not a single white man should be disfranchised, and I am opposed to the enfranchisement of any negro in the State of Alabama. Let it be Booker Washington or any one else. I yesterday liked to have been mobbed here, because I wanted to maintain the purity of the Caucasian blood. I wanted then and there to put the words "Indian and Chinese in a law prohibitory of marriage, and I heard men upon this floor get up and boast that the proudest blood in Alabama was the blood of the Indian. I want to state if that blood is proud, it was made so by Caucasian blood, and I want to state further that ours is the blood that God intended to rule the world, and it is only that blood which I recognize that flows in my veins and I believe flows in the veins of the majority of the delegates to this convention.

Now, Mr. President, I do sincerely hope that the amendment offered by the gentleman from Jefferson will be adopted. It does not mean the enfranchisement of a single negro, but it means the enfranchisement of many honest white laborers in the State of Alabama, and why should we, the sovereign people of Alabama, violate our pledges here in the first section of this ordinance upon suffrage, and ignore a right that has existed ever since Alabama has been a State in the American Union, and disfranchise some of our best citizens. As far as I am able to I will always respect the old homestead. I will always respect that home across the seas from which my forefathers came. I do not think the people that cross the ocean now are any worse than the people that crossed it long centuries ago. I do not believe that we are called here to disfranchise any man simply because he comes from a European country. I do not believe that we are asked to do that, or that the sovereign white people in the State of Ala-

bama will endorse their disfranchisement by the first section of this ordinance on suffrage. As I stated before, I am willing to allow none but white men to vote, and I shall offer that proposition if no one else does, before this suffrage clause is completed. I am willing to take my medicine like a man.

I am willing to go before the Federal Congress of the United States, before partisans from Ohio and other States, in which the negro holds the balance of power, and say we plead guilty to the charge. I am willing to say we once hated the American Union. Have the manhood and stand up and say that no one but white people shall be allowed to vote in the State of Alabama. I believe that is the better way to do it. I believe that this is the only fair way of doing it. I have no respect for one of these dodging grand-daddy clauses, that excuses everybody because his daddy wore the grey. Some of the sorriest men I ever knew wore the grey. Some of the best men I ever knew wore the grey. Some of those people, and the descendants of those people, carried with them the mark of rascality written upon their face. I believe in a clause that will give the white men preference in the State of Alabama and say that nobody but white men shall vote, but I do protest against the first section in this article, that disfranchises good white men because they have crossed the seas inside of the last five years.

Leave of absence was granted to Mr. Jones (Montgomery) for today, and to Mr. Reese of Dallas for today, and the convention adjourned.

Afternoon Session.

The convention was called to order by the president, and the roll being called showed the presence of 105 delegates.

Leaves of absence were granted Mr. Kyle for tomorrow and Mr. Thompson for yesterday.

The PRESIDENT: The special order of business for this afternoon will be the consideration of the report of the Committee on Suffrage and Election. The convention had under consideration when it adjourned at noon Section 1. The chair recognizes the gentleman from Mobile.

Mr. Graham (Talladega) took the chair.

Mr. SMITH (Mobile): The question as to the difference between the constitution of 1875 and the provision of the article reported by the Committee on Suffrage and Elections was considered in the committee at very considerable length, and the committee intentionally changed the qualification so as to deprive foreigners who had not become citizens of the United States, but who had declared their intention to become citizens of the United States, of the right to become participants

in the elections in this State. It was not believed by the committee that that class of people as a general thing were interested in and attached to a Republican form of government. They come here from various classes, and the largest proportion of emigrants coming to this conurty are not of the most intelligent or the most desirable class. They are people that come here for remunerative wages, who seek employment in the mines and the other industrial pursuits of this country. They come here, not seeking the benefits of our governmental institutions, nor seeking the freedom of the United States of America. They know little and care less about the governmental affairs of this country, and many of them live here from year to year and raise families without really knowing the organization of our government, or the system of its laws and legislative enactment. Experience has taught the United States that they are not safe and good citizens until they have lived here at least five years, and shown to the satisfaction of the court by their conduct during that period that they are men of good moral character and attached to the principles of the Constitution of the United States, and well disposed to our Government and the welfare of the same. If it be true that it takes that length of time to test them, and to test if their purpose here is to enjoy the advantages that are to be derived from this government, and if we must have an opportunity to observvve them and observve their conduct in order to determine whether they are proper for citizens of the United States, it seemed to the committee that it would be turning loose an unfit element into the electorate, to allow them to participate in the elections in Alabama until some opportunity is afforded our people for judging of their character and their conduct and their attachments to our form of government. In my section of the State there is a diversity of elements. The Italian comes in, ignorant not only of our law, but of all existing law. The Swede is left there from the ships, with a tendency to freedom and a belief in it. The German, the Scotch and the English of the better classes come there with money and invest it in the material interests of our country, but few of them, however, come under an idea that they are bettering themselves in the governmental sense. They come not for freedom, but for business advantages, and there are gentlemen in our community of high standing, of high education, good men and good citizens, who have raised families there, but who are still devoted to the institutions and laws of the country from which they came. I have in mind one who is a good, intelligent, honest, prosperous man, that has been there nearly thirty years. He is married to an American wife, has raised a large family of children, his every interest is there with him, but he still believes in the

government and laws of the fatherland, and is today sending his children back to Germany to be educated and imbued with the laws and institutions of that country.

Mr. SANFORD (Montgomery): Has he never declared his intention to become a citizen?

Mr. SMITH: Never has, and never will, so far as that is concerned. We have another such there, one of the finest men I ever knew, of fine intelligence and a good citizen. He has become a citizen of the United States, but he has been twenty years making up his mind to see if he is attached to the principles of the Constitution of the United States, and because he was nuwilling to say so until recent years, he has waited until this time to take out his papers of citizenship. If men of that character so cherish the memories of the countries from which they come, and remain attached to their principles, what can you expect of the laborer, the man who is without any knowledge as to our form of government, has the customs and laws of his native state instilled into him from childhood, what do you expect of him when he comes here? Do you expect him to appreciate our government, do you expect him to exercise properly the privileges of the franchise, and to do it for the advancement of a republican government? I think not. Our country is not yet filled with inhabitants, but if the tide of immigration increases year by year, and the day may come when the majority of this country will be largely of a foreign element. To allow the foreign element the electorate would place it in their hands to at least modify, if not to control our institutions, and I believe it to be dangerous to admit any of them to the electorate unless they have not only declared their intention, but have actually become citizens. Many gentlemen of the convention know that a number of them will declare their intention, not because they want to become citizens, but because as voters they want to be brought together in classes, or bunches of twenty-five or fifty, and have their votes sold to candidates for office, and there may be hundreds of them who declare their intention without ever becoming citizens or ever expecting to become citizens of these United States, and I do not believe that the electorate ought to be thrown down before these people to be used as a mere mattter of merchandise. It was in consideration of these views that the committee changed the language in the old constitution and excluded these people. The argument here, however, has been made that a number of these people were already qualified voters at the time the declaration was made by the Democratic convention that no white man would be disfranchised, and while, when I came here I was so green in politics as to believe that the State conven-

tion had exceeded its powers, and had no power to bind me as a member of the constitutional convention, and while I came here I had no idea of obeying the dictates of that platform; yet when I got here and found myself in association with a large number of gentlemen who looked at it from an entirely different standpoint, who thought they were bound by that platform, and had pledged themselves to the observance of it, I thought, therefore, whatever might have been my individual views, the fact that this convention, as a convention, was bound and tied by the platform, I would become ridiculous to set myself up to kick against the great majority of its members, and I concluded to lay aside my personal views and to act in all other matters in this convention as if I believed that the platform was binding on me in every word and letter, and I shall, therefore, vote consistently throughout for the observance of the terms of the platform, because I believe that the majority of the convention are bound to do so. Now, in considering this question, it had not occurred to us that there was anything in the platform that made it necessary that we should admit any portion of this vote which we thought ought not, upon principle, to be admitted to the electorate, but the discussion that has taken place here inclines me to think that I was mistaken in that, and I am inclined to think that under the platform, we are obliged to allow those white people of foreign birth, who were qualified voters at the time their declaration was made, to remain qualified voters under this constitution, and, therefore, I think it is the sense of the committee to accept the modification that has been made by the resolution that has been offered, but I desire to offer an amendment providing that if these same people who have declared their intention to become citizens of the United States shall fail to become citizens after they have had an opportunity to do so, that then they shall cease to participate in the electorate of this State, and I offer that resolution.

Mr. SANFORD (Montgomery): When it says any white man, didn't it have reference to citizens of the United States born or naturalized? It could not have reference to men
28 who were not citizens of this country.

Mr. SMITH: As I said, I am not a good interpreter of that platform, because I was a kicker against it, and I have taken the interpretation of the gentlemen who feel themselves bound by it, and they think that every man who could vote at that time was within the meaning of the platform, whether he had become a citizen of the United States or not, and I am abiding by the interpretation that I have received.

The Secretary read the amendment of Mr. Smith as follows:

"Provided, that all such foreigners who had declared their intention to become citizens of the United States, shall cease to have a right to vote if they shall fail to become citizens of the United States after they are entitled to become such citizens."

Mr. SAMFORD (Pike): I would like to have both of the amendments read together.

The Secretary read the amendments as follows. "Amend by adding after the words 'United States' in the first line of Section 1, the following words, and every male person of foreign birth who before the adoption of this constitution, may have legally declared their intention to become citizens of the United States; provided, that all such foreigners who have declared their intention to become citizens of the United States, shall cease to have a right to vote if they shall fail to become citizens of the United States after they are entitled to become such citizens."

Mr. SAMFORD (Pike): I am not a member of the Committee on Suffrage, but no man in this convention has the question closer to his heart than I have. There is no member on this floor who would go as far or further to protect the interests of every white man and every black man in this State than I would. There is no man in this convention who would go further to guarantee to the people of Alabama white supremacy than I would, and there is no man within the sound of my voice who would be further from disfranchising any white voter of the State of Alabama than he who speaks to you now; but, Mr. President, the man who is not a citizen of the State of Alabama does not come within the pledges made by the Democratic party in their conventions that have preceded this convention. I will admit that upon first blush, it occurred to me that the amendment offered by the gentleman from Jefferson was the proper thing to do. That, perhaps, it would be wise, to incorporate it in our organic law, but we have no more right to extend the right of franchise to men who are not citizens of the State of Alabama——

Mr. SANFORD (Montgomery): And of the United States.

Mr. SAMFORD (Pike): And who lived within its borders, than to those who own property here and live on the outside of its borders.

Mr. LOWE (Jefferson): Will the gentleman permit an interruption?

Mr. SAMFORD (Pike): No, sir—yes, I will; I beg pardon; I will permit the interruption.

Mr. LOWE: I want to ask the gentleman if there is such a thing in the platform changing any provision of the constitu-

tion regulating the right of a white man. I ask the gentleman in that connection, if the proposition of the committee does not alter the existing constitution as to the right of a white man to vote?

Mr. SAMFORD (Pike): No man in this convention would be further from violating a pledge of the Democratic party with reference to the suffrage than I would be, but when I say that, I mean the intent and spirit of the platform, and not its letter—not necessarily its letter. There can be no good reason why men who are of foreign birth, who have come to our friendly shores, and who have engaged in our manufactures, engaged in working out mines for the dollars and cents that come to them, should be permitted to participate in our republican forms of government before they have learned the alphabet of a republican form of government. There is no sense in placing the elective franchise in the hands af a man who has not become familiar, either by education or by study or by having it instilled into him from his youth up—I say there is no reason why a man who has not become educated to a republican form of government should have the right of exercising this two-edged sword. He owes no obligation nor allegiance to this people, he owns no property in this State, he has no sympathy, perhaps, with the great destiny of this people, and yet, forsooth, we give him the right of casting a ballot which has been said to be a two-edged sword, and cuts on both sides. I, for one, am not willing to incorporate in our organic law a clause that will give to people of an entirely different view of government the right to exercise the franchise and assist in maintain this government until they have at least had a few years in which to consider our forms of government. It may be true that at the present time there are comparatively few of these citizens within our borders. It may be true that for the present time they are confined to a few hundred in the magnificent county of Jefferson and to a few more hundreds in the splendid county of Mobile, but as has been said by the gentleman from Mobile, the tide of immigration is turning our way. The immigrants from the old countries are flowing into the beautiful southland, the immigrants—whenever they can—from China, are coming to the beautiful southland, the people of the civilized world are beginning to see the beauties of our climate, and the glories of our soil, and the tide of immigration has turned in our direction. Put within our borders a few thousand of the men who for some time have assisted in shaping the destinies of Chicago and the great cities of the Northwest, and I say to you here, I would rather ten thousand times have the illiterate negro vote continue to cast the franchise. Mr. President, I hope that neither of these amendments will be

adopted by this convention, but that the convention will submit itself to the wise, to the careful and to the powerful conclusions of this splendid committee that they have appointed to frame this instrument.

Mr. SANFORD (Montgomery): I quite concur with the gentleman from Pike in supporting the report of the committee as it came from that body. It gives to every male citizen of this State who is a citizen of the United States the right to vote. The amendments propose to give to citizens of foreign countries the right to vote who may not even have resided two years in the State of Alabama. A citizen owning land here, a citizen of Great Britain owning land here may come to the city of Montgomery, for intsance, be pleased with the social surroundings, and declare his intention to become a citizen. He goes back home, he remains several years, he comes back, he never has perfected his citizenship and yet an election is held and he chooses to vote. He votes for the electors for President, for the governor, for your legislature, for your Congressman, for your judges of every court, from justice of the peace to the Supreme Court. Now, it does seem to me that men who have no interest in this country should not be permitted to vote at the elections. To those gentlemen who have so much sympathy for the foreigner who has merely declared his intention, let me say that I have quite as much, and that I have canvassed Alabama in behalf of the rights of foreign citizens when many of those gentlemen were not born, or were playing marbles in the school yards. I have always been the friend of the foreigner, it is a fact well known where I live, but I do not believe that any foreigner, however wise, virtuous or worthy he may be, has a right to participate in this government unless he is in a condition to bear its burdens. A foreigner here who has declared his intention cannot be compelled to bear arms in defense of the State, he cannot be enlisted in your police, he cannot be recruited for any purpose, and, therefore, it seems to me, that he who cannot be compelled to support the government should not have the privilege of making its policies and of voting for its chief officers. I hope that the amendments will not be adopted by this convention. I can see no reason why a man from Italy or Turkey or any of the Caucasian countries may have the privilege of voting in Alabama when he merely said, "I would like to be a citizen." The government requires certain facts to be proven. He must be proven to be a man of good moral character, he must be proven to be attached to republican institutions, and if that is the experience of the statute of naturalization, he cannot become a citizen of Alabama unless he is a citizen of the United States by birth or by the process required by its naturalization laws. It does

not require him to be five years in Alabama—as one of my friends suggested—he must be a resident of the United States five years before he can become a citizen, and yet we give him all the rights of citizenship if he happens to declare his intention and comes to Alabama under the proposed amendments and remains two years in the State. I do not think it is just to other citizens of the country. Men may own thousands of acres of land here, they put their tenants, foreigners, upon these lands, they may teach them to declare their intention, they become voters at once and then they have an influence in your elections far beyond what was contemplated when the tenantry was settled upon the lands of Alabama. I hope, Mr. President, that the section reported by this committee will be adopted without amendment.

Mr. KNOX: I do not desire to discuss the question at any length, but I simply want to say that I fully agree with the gentleman from Pike and the gentleman from Montgomery who have spoken against these amendments. I may be mistaken, but my recollection is, Mr. President, that the States of South Carolina, Mississippi, Louisiana and North Carolina, that have dealt with this subject have taken this view. They have embodied the same provision with reference to the participation of foreigners in the exercise of the right of suffrage that our Committee on Suffrage has done. It is not a disfranchisement of these people. It simply provides that they cannot merely declare their intention and remain citizens of foreign countries. Many of them, I am informed, declare their intention and never get any further. They never prove up and comply with the requirement of the act of Congress, and many of them, it may be, cannot comply, because the act of Congress, Mr. President, requires that they must be able and ascribe up to the conditions which our Committee on Suffrage have required. They must prove that they are men of good character, that they have behaved and conducted themselves as good citizens before they can comply, and it may be that many of them fail to comply because of their inability to do so. They are not disfranchised by this provision. They may go on if their conduct and character is such as to enable them to do so, and qualify themselves for citizenship. It seems to me that it is only reasonable to expect and to require that they should do so. I am in favor of the provision as it was originally reported by the committee.

Mr. DE GRAFFENREID: I desire to state that I agree with the gentleman from Pike and it seems to me that it is absolutely unnecessary for this section to be encumbered with either one of these amendments. It also seems to me that in refusing to adopt them we will not violate any statement that was made in the Democratic platform. If the members of this

convention will read carefully this report that comes from this committee, they will find that all men who are now entitled to vote under the laws of Alabama will be entitled to vote in all elections except the general election in 1902, and that this constitution, so far as its limitation upon suffrage is concerned, will not go fully into effect prior to 1903. If the majority report of the Committee on Suffrage is adopted by this convention, no election after the election in 1902 will be held for State officers until 1906, so that any man who has already declared his intention to become a citizen of this State will have the opportunity under the general laws of the United States to perfect his intention by becoming a citizen, before this constitution goes fully into effect. I do not think, Mr. President, as we propose to cut from the electorate many men who have been born and raised to manhood in Alabama, and who are citizens of this State, that we should permit people who are foreigners by virtue of a mere declaration and who, perhaps, not only do not understand anything about our institutions, but are perhaps unable to speak our language, to aid us in electing officers who will in the future frame our laws. I believe that this provision as reported by the committee which comes with the endorsement of every member of the commitee, appears in all the modern constitutions of the States, and that it should be adopted by this convention without change or amendment.

Mr. KIRKE: I rise to support the amendment of the gentleman from Jefferson as amended by the gentleman from Mobile. I think a strict adherence to the pledges of the Democratic party requires the adoption of that amendment. That amendment, as I understand it, applies alone to those of foreign birth who, under the present constitution, should have the right of franchise. I would oppose the amendment if it went any further in extending the privilege of franchise to the foreigner. But I do believe it is the duty of this convention to adhere literally to the pledges of the Democratic party upon that proposition, and I might say in this connection, Mr. President, that notwithstanding the great clamor that has been made against the grandfather clause, I believe it is one of the best provisions that has been reported by the commitee. It is true that that grandfather clause applies to the temporary plan, but if we adhere to the pledges of the party, we must incorporate in the permament plan the grandfather clause,

I believe it is our duty to see that no white man in the
29 State of Alabama is disfranchised by the constitution
that we are framing now. The pledges of the party have gone out to every white man, and as I said a moment ago, the great clamor against the grandfather clause does not emanate, Mr. President, from the masses of the voters in this State.

They want it, and it is necessary that we incorporate that clause in the constitution before we submit it to the people for ratification. But that question will be discussed later in the consideration of this report. I trust, gentlemen, that you will support the amendment to this section of the commitee's report.

Mr. FERGUSON: I rise to support the amendment offered by my colleague from Jefferson, and also the amendment offered by the gentleman from Mobile, as I believe it to be reasonable. We have a clause in the Declaration of Rights declaring that emigration shall be encouraged in the State of Alabama. Can we encourage emigration to this State unless we give the right to people coming here as emigrants to participate in the affairs of government? I believe that was what induced the framers of the Constitution of 1875 to embody that provision in the constitution of this State. I believe that is what induced the framers of the Constitution of the United States to recognize the naturalization of foreign citizens.

Now, Mr. President, I desire to add my mead of praise to what has been said of the foreign-born citizens of Jefferson county. I have been a solicitor in that county for well nigh thirteen years, and have attended its courts and its grand juries, and I desire to say that it is rare, indeed, when you find them defendants in the criminal courts of that country. They are frugal and industrious people, as a body in the main. They are home-builders, Mr. President, a great many of them. Many of them have builded homes in Jefferson county, and many of their little communities have erected churches there for the worship of Almighty God. It is true, as said by the gentleman from Mobile, that many of them do not conceive the good purposes of citizenship. That applies to but one or two nationalities; but the great bulk of the foreign-born citizenship of Jefferson county do appreciate the duties and responsibilities of citizenship, and well know and recognize the principles of republican form of government. They have taken an active interest in politics, and as a general rule they have stood by the dominant party in this State in many close contests. I will support, Mr. President, the amendment offered by my colleague from Jefferson, and also the amendment to the amendment offered by the gentleman from Mobile.

Mr. SANFORD (Montgomery): There is nothing that prevents them from voting or holding office after their having been naturalized. It is before they are naturalized that we are objecting to their voting.

Mr. FERGUSON: I think the amendment offered by the gentleman from Mobile is entirely reasonable and covers that point.

Mr. DENT (Barbour): I just desire to add a word or two upon that amendment but before I do that, I desire to say I have heard a great deal said in reference to party pledges, and the pledges contained in the platform. I do not propose to violate what I consider the spirit of the pledges of the Democratic party, but, while I am upon my feet, I propose to present my views of those pledges for what they are worth to this convention. We are pledged here not to disfranchise any white man. I take it that that means that we are not to do it if we can avoid it and prepare and make a constitution that will be beneficial and acceptable to the people of Alabama. But, Mr. Chairman, there is another view of this question which has occurred to me and which I have heard discussed, and I want to illustrate. Now, if the convention was going to adopt a constitution without submitting it back to the people, we should certainly be very careful to preserve the pledges that we made them; but that, I presume, in fact, I am satisfied, is not to be the case. Whatever constitution we make will be submitted back to the people of the State of Alabama for their ratification or their rejection. Now, let me illustrate my view of the principle that is involved. We represent the people of Alabama as their agents. Now, a principal sends out his agent to make a contract for him, and he limits him in making the contract, stating that he is to make the contract in a particular way and in a particular manner and have in it particular conditions. The agent goes and finds that it is impracticable to make such a contract as his principal has prescribed, but he, in the exercise of his discretion, makes a contract upon the condition that it shall be ratified by his principal. He makes that contract and submits it back to his principal and says: "Here, I could not make the contract literally as you gave me instructions to make it, but I made a contract as near to it as I could and which I think will be beneficial to you, and you have the right now to say whether you will stand by that contract or reject it." If he does that, I want to know who is hurt?

If we make a constitution here, doing the very best we can, for what would be to the very best interests of the people of Alabama, suppose we do violate in letter some of the pledges made by the Democratic party in its platform: if we refer it back to the people, and they accept it, who is hurt by it?

But now I come back to the amendment. I do not believe that the man who is not a citizen of Alabama should have the right to select the men to make its laws and to enforce them. Do you know, Mr. President, that there are but five States in the forty-five that compose the Union of States in this country that have this principle engrafted in the organic law, Alabama being one of them? Take out Alabama, and we have

about four or five left—States in the Northwest where this element dominates and controls. You go to the great States like New York and Ohio and Illinois and Pennsylvania, and States like them, and they have no such provision. In fact, as I have said, only a few States in the Northwest, Minnesota, Michigan and Wisconsin, and perhaps some others that I do not recall, have this provision of allowing aliens to vote.

I say take history. Isn't it worth something to the people of Alabama? Isn't it worth something as a guide to those who are making a constitution for Alabama that out of forty-five States in the Union less than five have this principle engrafted in their constitutions? I hope the amendment will be voted down.

The President here took the chair.

Mr. DAVIS (Etowah): Mr. President, I favor the amendment of the gentleman from Jefferson as amended by the amendment of the gentleman from Mobile. I believe that this is the time of all times when we should not stand on hair-splitting technicalities and say that we are going to adopt the spirit of the platform, but that we are at liberty to depart from the letter of the pledge. I believe that this report of the Suffrage Committee is a magnificent production. It far exceeded my expectations, although I expected a report from them that would be a credit to this State, and yet, as high as I have regarded it, I saw this morning, to my mind, an imperfection, and that will be cured if this amendment is adopted. Now, Mr. President, it occurs to me that if we should vote down these amendments, and thereby strike from the electorate of Alabama some of the white people of the State who have heretofore enjoyed the privilege of voting, that when we go back in the fall to advocate the adoption of this constitution, the people of Alabama, who are not so intelligent as those in this convention may say, "You have stricken out a part of the white people of Alabama who were entitled to vote." They cannot understand this suffrage report as a whole, for we were so hedged in by the Fifteenth Amendment on the one side, and the pledges of the party on the other, that it is necessarily complex, and I believe, Mr. President, that a large number—the large mass—of the voters of this State will have to take that suffrage plank on faith from the members of this convention, and others from the State, who will go out and advocate the adoption of the constitution and of this particular plank,—I say I believe they will not be able to understand it thoroughly, and will have to vote on faith largely.

Now, then, if it is brought up on this plain, pure principle, this simple proposition, it will be urged by the opposition that you have disfranchised a part of the white people of Alabama,

in that you have taken from those who heretofore had the right to vote that right, and we cannot gainsay it, but will have to stand silent and admit that we have disfranchised a certain part of them.

How, then, can we expect them to believe this suffrage report and believe that we have not disfranchised them further? There is no man in this convention who is more opposed to the foreign-born element coming in and usurping the functions of government and participating in shaping our laws than I am, and I heartily favor the provision in this report which says that after a certain day all foreigners coming in must hew to the line and become citizens of the United States before they can avail themselves of the privilege of voting, but those who are at present entitled to vote are a mere handful and the amendment of the gentleman from Mobile and which I thoroughly indorse goes to the extent of saying that even they shall not continue to enjoy the privilege of voting if they do not carry out their intention of becoming citizens, indeed. I trust, Mr. President, that, in the incipiency of the discussion of this suffrage report, we will not violate either the spirit or the letter of the pledge, and I hope the amendment of the gentleman from Jefferson as amended by the gentleman from Mobile will be adopted.

Mr. BULGER: If I understand the section as reported by the committee and the purpose of the amendment offered by the gentleman from Jefferson, it seems to me that it would be unwise to change anything in this section as reported by the committee. The framers of the fundamental law of the whole country foresaw the question with which we are confronted this evening. They put in the first article of the Constitution of the United States a provision leaving to Congress the power to settle this question, and the Congress of the United States, in their wisdom, saw that five years was little enough for a foreigner to come to this country and become a citizen. On the other hand, Mr. President, here is a young man of America, born on American soil, who is educated in the English language, trained in American colleges in the arts and sciences of our Government, and who at 20 years of age is not permitted to vote, and yet right by his side, a foreigner who has only been in this country but a few days, has only to declare—not to become a citizen, but to declare—his intention to become a citizen, and he is entitled to vote. I say, Mr. President, it breaks down the theory of the Government when you permit such a thing. The great moving principle that called this convention together was to purify the ballot. You may pass an article on the suffrage that will strike down every colored voter in the land, and if you leave the foreign element, about which

I have heard, still to vote, the ballot will be far from pure. The honest, capable negro, who has been born and raised in America, in my humble judgment, is better qualified to vote even when the foreigner has been here for a term of five years. It seems to me that the committee which has so faithfully and so ably presented to this convention the article on the great and all-important question of the suffrage has acted wisely when they put this simple change from the old constitution which, with the negro stricken out, the strange foreigner will be stricken out and our ballot will be pure. I desire to register not only my vote, but to register my voice against both of the amendments and in favor of the section.

Mr. COLEMAN (Greene): Mr. President, no thoughtful man can underestimate the importance of the questions which are presented to you for consideration. The future prosperity of this State depends upon how these questions are solved. As has been told you, the committee struggled with this provision for nearly two days, discussing it in all its various aspects. We were aware of the views that had been presented by the distinguished gentleman from Jefferson, and there were counteracting views from other portions of the State. There were delegates who took the same view of some of the delegates here that there was a technical violation, perhaps, in their own minds it may have been, but that question was not discussed before the committee. The great question presented to the committee was what was the best suffrage plan we could devise for the good of the whole State, and you have the result before you. It is the purpose of the committee to present its view, to let this convention know what it thought best, but upon these points to place the responsibility of the choice with the delegates here assembled. The commitee will make no objection to any action taken by this convention. We are after the very best plan that can be ascertained and adopted. I think the question has been sufficiently discussed, and while I would not cut off any gentleman from expressing his views, I believe it is time to move the previous question upon the adoption of the substitute of the gentleman from Mobile and the amendment by the gentleman from Jefferson and the original section presented in the report of the committee.

The PRESIDENT: The question is, shall the main question be now put?

Upon a vote being taken the main question was ordered.

Mr. BEDDOW: Under the rules regulating the debate on the suffrage question, I believe I have the right to close.

The PRESIDENT: The right to close would be with the chairman of the committee.

Mr. BEDDOW: Upon reading the resolution, I believe I would have the right to close.

The PRESIDENT: Will the gentleman please read the resolution?

Mr. Beddow thereupon read the resolution as follows:

Resolution No. 255, by rules committee:

Resolved, that the rules of the convention limiting debate be suspended when the report of the Suffrage Committee is taken up for consideration, and that each delegate be allowed to speak once, and not longer than thirty minutes upon any proposition presented by the report of the committee or any amendment thereto, except that the chairman of the committtee or mover of the amendment, or such delegate as such chairman or mover may yield his time to, may, after the previous question has been ordered, close the debate, and in so doing may speak for a like period of thirty minutes; provided, that the time here limited may be extended by a majority of the delegates voting without a suspension of the rules.

The PRESIDENT: The chair will state that the same question has been presented several times before, and the construction which the gentleman from Jefferson put upon it would be true if the motion for the previous question was limited to the amendment. If the motion for the previous question in this case was limited to the adoption of the amendment, the gentleman proposing the amendment would have the right to conclude, but where the previous question, as in this case, is directed to the section, only one person can conclude under the rule, and the ruling of the chair before has been (and the chair still thinks it is correct) to give that right to conclude to the chairman of the committee, because upon this issue not only the amendment, but the original section, is involved.

Mr. CARMICHAEL (Colbert): I move that the rules be suspended and that the gentleman from Jefferson be allowed to close the debate.

The PRESIDENT: It is moved that the rules be suspended and the gentleman from Jefferson be allowed to close the debate. Possibly the chairman of the committee would yield the floor to him.

Mr. COLEMAN: I yield the floor to him, but still I retain the right to close if I see proper.

The PRESIDENT: The chairman of the committee yields ten minutes of his time to the gentleman from Jefferson.

Mr. BEDDOW: I desire to thank the chairman of the committee. There have been some good arguments on the question of who should not be allowed to vote in our elections, but the serious question in the matter we are taking under consideration here is not who would be a good voter, but who would be a poor

voter, in the contemplation of the new constitution we are about to frame. The question that confronts us at the very outset, in the very first section of the article, and the first line of that section, is shall we, as the representatives of our constituents in this constitutional convention stand up and abide by the pledges that we made our people before we were elected to this constitutional convention. When the dominant party of this State met in convention, they adopted a platform in which these words were used: "That no white voter shall be disfranchised except for infamous crime." "No white voter." There is no other construction that can be put upon that than that no man who, at the time he voted for us as delegates for this convention, and who had the right at that time to vote, should be disfranchised. When we met in Birmingham to consult together, we, by the unanimous vote of every delegate present, in the rooms of the Commercial Club, indorsed, ratified and pledged ourselves to stand up to those pledges, and now we are confronted as I say in the very first paragraph—the very first line—and asked to go back on our pledges and disfranchise possibly 5,000 or 6,000 citizens and voters of the State of Alabama. Some gentleman has seen fit to say that these foreigners are unworthy of a vote. There are men in my county who are the peer in intellect, who are of foreign birth, and who are not naturalized, of any gentleman upon this floor. There are men in my county who, if this clause was adopted, would be disfranchised, who favored the calling of this convention and who thought when we made these promises that we made them in good faith. Some gentlemen seek to dodge the question by saying that it will be submitted back to the people for ratification, and the gentleman who spoke from the County of Barbour indicated as much. But if we violate our pledge in that respect, have we not the same right to go further and say that we will not submit it to the people? If you violate it in one instance, you may do it in another.

Mr. President, from the time of the landing of the Pilgrim fathers upon this continent, America has always been the refuge and the haven for the oppressed of other nations in quest of liberty and law. Shall we refrain from holding out to them those same blessings? Shall we take a back step? Shall we go back on our pledges? Go back on the friends who voted to send us here and stand up here as the poet says,

> That friendship to us is ambition's ladder,
> Whereto the climber upward turns his face,
> But when he once attains the upmost round
> He then to the ladder turns his back
> Looks into the crowd and scorns
> The base course by which he did ascend.

These pledges I made to my people are just as binding to me today in the halls of this convention as the day I made them, and if we never have suffrage reform until I am required to go back on the pledges I made my people, I say by my vote we will never have it. I believe that is all I care to say on this question. It has been discussed at length. It has been ably discussed from every standpoint, but I say to you, if you forget your pledges, this constitution will not be ratified and we ought not to hope for its ratification.

Mr. COLEMAN (Greene): The provisions in the Democratic platform is as follows: "That we pledge our faith to the people of Alabama not to deprive any white man of the right to vote except for conviction of infamous crime," etc.

The question for you to consider is this: Whether it deprives any white man from qualifying himself to vote by becoming a citizen of the United States. If he fails to become a citizen of the United States, he cannot vote, but if he becomes a citizen of the United States, then he has the right to vote, if he possesses the other qualifications. As I stated before, you have heard distinguished men—distinguished lawyers—discuss that question. What is best for the people of Alabama under all the circumstances? There is a pledge, and you have heard the opinion of the attorneys learned in the law upon the question. I call for the previous question.

The ayes and noes were called for and the call sustained.

By a vote of ninety ayes to twenty-eight noes, the amendment offered by Mr. Smith (Mobile) was adopted.

Mr. COLEMAN (Greene): A parliamentary inquiry. Does the defeat of the amendment offered by the gentleman from Jefferson have the effect to leave the section as originally reported by the committee?

The PRESIDENT pro tem.: In the opinion of the chair it would. The question is upon the adoption of the amendment offered by the gentleman from Jefferson.

Mr. BEDDOW: I call for the ayes and noes upon that.

A Delegate: They have been ordered.

The PRESIDENT pro tem.: The chair is not certain whether they were ordered on this proposition. Is the call sustained?

The call was sustained and the amendment of the gentleman from Jefferson was read.

Mr. CUNNINGHAM (Jefferson): I rise to a parliamentary inquiry. If the amendment of the gentleman from Jefferson is defeated, leaving the present section as it stands, will it not have the effect to disfranchise white foreign voters who are now entitled to vote?

The PRESIDENT pro tem.: In the opinion of the chair

that is not a parliamentary inquiry, but one for the courts of the country.

Mr. DE GRAFFENREID: I will ask if it would have the effect, if such foreigners should qualify themselves as citizens?

The PRESIDENT pro tem.: The chair is of the same opinion in regard to that inquiry.

Mr. OATES: I rise for the purpose of making a suggestion.

The PRESIDENT pro tem.: The previous question having been ordered, discussion is out of order.

So the amendment to the amendment was stopped.

The PRESIDENT pro tem.: The question recurs upon the adoption of the section as amended.

Upon a viva voce vote the section as amended was adopted.

Mr. LOWE (Jefferson): I desire to move a suspension of the rules for the purpose of extending the privileges of the floor to the distinguished representative of the Fourth District. One who has done as much, I believe, as any other man to render possible the holding of this convention, the Hon. S. J. Bowie.

Upon a vote being taken the rules were suspended, and upon a further vote the motion was unanimously adopted.

Section 2 was read as follows:

SECTION 2. To entitle a citizen to vote at any election by the people, he shall have resided in the State at least two years, in the country one year, and in the precinct or ward three months immediately preceding the election at which he offers to vote, and he shall have been duly registered as an elector, and shall have paid on or before the first day of February next preceding the date of the election at which he offers to vote, all poll taxes due from him for the year 1901, and for each subsequent year; provided, that any elector, who, within three months next preceding the date of the election at which he offers to vote, has removed from one precinct or ward to another precinct or ward in the same county, incorporated town or city, shall have the right to vote in the precinct or ward from which he has so removed, if he would have been entitled to vote in such precinct or ward but for such removal.

The PRESIDENT: The question is upon the adoption of Section 2.

Mr. LOWE (Jefferson): I have an amendment.

The Secretary read the amendment as follows: "Amend Section 2 by adding after the words 'to vote,' in the fifth line, the words 'and each year subsequent to the last general election next preceding.' "

The CHAIR: The question is upon the amendment of the gentleman from Jefferson.

Mr. Coleman (Greene) sought recognition.

Mr. PILLANS: I desire to make a suggestion to the gentleman from Greene which I think he will adopt.

The PRESIDENT: Does the gentleman yield?

Mr. COLEMAN (Greene): I will hear it.

Mr. PILLANS: The first line of the section should be amended in view of the action on Section 1, by striking out the word "citizen" and putting in the words "any person." I think to make it consistent with what we have done, it should entitle any person to vote instead of any citizen.

Mr. LOWE (Jefferson): If the chairman of the committee will give me a moment I can make my provision plain.

The PRESIDENT: The gentleman from Jefferson asks the privilege of making a statement.

Mr. LOWE: It will not take but a moment; I do not care to discuss it. The section, as I understand it, requires the payment of the aggregate poll taxes in February next preceding the election. My amendment requires the poll-tax to be paid in the year in which it is due. I think it is salutary, for the reason that if it is required to be paid in the year which it is due, there will be no temptation to the candidates to supply the money to pay the poll-tax.

Mr. COLEMAN: I will say first, in reply to the suggestion made by the delegate from Mobile, that Section 1 has not been altered in any way to conflict with Section 2 as it now reads. It is the purpose of the committee to prepare the section just as it is. When a party offers to vote all the poll tax due by him at the time he offers to vote must have been paid by him. If he does not intend to vote until 1903 or 1905, he is not permitted to vote until he pays all the poll taxes which have accrued against him. The very purpose which the delegate by his amendment offers to secure, is better secured, as we understand the reading of this section, as it is now framed, not only for the year of election, but for all subsequent years prior to the time he attempts to vote. The latter clause of that section needs some little attention, beginning at the sixth line. "Provided, that any elector who, within three months next preceding the date of election at which he offers to vote, has removed from one precinct or ward in some county, incorporated town or city, shall have the right to vote in the precinct or ward from which he has so removed, if he would have been entitled to vote in said precinct or ward, but for such removal." That is the provision to prevent parties from going out of one ward or precinct into another a few days before the election or within a short time, and perhaps the managers of that beat or ward cannot ascertain whether he is an elector

or not. But if he is required to go back into the ward where he removed from, he would be recognized, whether he is a qualified elector or not. The purpose was to prevent parties from voting who were not qualified electors, by simply stepping across the line of an agricultural precinct or from one ward to another in cities. The suggestion that it be made to apply to cities came from members of the committee who reside in large cities, and the precincts from those who are from the agricultural districts. We think it would remedy a great evil as to persons voting who are not qualified electors.

Mr. LOWE: Will the chairman yield for a moment? I understand from some members of the committee, it is the purpose to require the payment of poll taxes in each year in which it was due by the first day of February.

Mr. COLEMAN: Yes, sir.

Mr. LOWE: That is the purpose of my amendment. I thought the language did not reach that. The language of this section as I read permits the payment of the aggregate of poll tax before the first day of February preceding a general election.

Mr. COLEMAN: Is not that exactly what it says?

Mr. LOWE: That would permit the payment of the ag-
31 gregate poll tax. Now, for instance, we are having four-year-term elections; general elections every four years. The report of the committee would permit the payment of the taxes for four years on or before the first day of February preceding the election.

Mr. COLEMAN: I do not think it bears that construction.

Mr. LOWE: I think it does. I have studied it carefully. Now, the purpose of my amendment is merely to require the poll tax to be paid each year so there will not be any temptation from any source to supply the money to pay poll tax.

Mr. COLEMAN: If it does not mean that, I do not know what it does mean, and for each subsequent year refer back to the first day of February.

Mr. LOWE: Will the gentleman pardon me, if I am not intruding. It entitles a resident to vote at any election. "He shall have resided in the State," etc., and he shall have been duly registered and shall have paid on or before the first day of February next preceding the date of the election at which he elects to vote all poll taxes due for 1901 and for each subsequent year; but he must pay all poll taxes, but it does not say that the poll tax shall be paid in the year in which it is due. Now my amendment merely says that it must be paid in the year in which it is due.

Mr. COLEMAN: Mr. President and delegates of the convention. The purpose of the committee was exactly my under-

standing now, to avoid what the gentleman desires. This election will come on in 1902. No election can come until 1902. It is to require him to go back and count from 1901 so as to pay poll tax for 1901, and if it comes off in 1902, also in the year 1902.

Mr. LOWE: Now, if the gentleman will indulge me, how would it be then as to poll taxes for 1903, 1904 and 1905, and we come to 1906. Under the report of the committee could not the poll taxes for these four years be paid before the first day of February, 1906?

Mr. COLEMAN: Mr. President and delegates of the convention, we are providing here a temporary vote providing for all elections up to a certain date. It can be paid at one time under the report of the committee. It must be paid on the first day of February, 1901, and for each subsequent year.

Mr. LOWE: Paid for the subsequent years preceding the general election. Can it not be paid for four years at one time?

Mr. COLEMAN: We do not so understand.

Mr. LOWE: That is the only point I wanted to arrive at.

Mr. COLEMAN: I think it is perfectly clear.

Mr. LOWE: That is the only purpose of my amendment, to require it to be paid in the year in which it is due.

Mr. COLEMAN: I do not know whether I have made myself understood. If the man pays up all his poll taxes he ought to be allowed to vote. I would not permanently disfranchise anybody because at one time he omitted to pay his poll taxes.

Mr. LOWE: Will the gentleman pardon me?

Mr. COLEMAN: I think I know the gentleman's view.

Mr. LOWE: I think the gentleman does not understand my views. If the language correctly reported his ideas.

The PRESIDENT: Does the gentleman yield to the gentleman from Jefferson?

Mr. COLEMAN: Once more.

Mr. LOWE: It is simply to arrive at an understanding. The purpose of my amendment is not ultimately to disfranchise a man who does not pay within a year, but it is that at the general election he shall not vote unless his poll taxes are paid for the year preceding that general election and subsequent to the last general election.

Mr. COLEMAN: Mr. President, the purpose of the committee was that if a person paid up all the poll taxes when due, he should be allowed to vote. If he was in default in the payment of his poll taxes he should not vote. We did not desire to disfranchise anybody who would comply with the law, who

would pay his poll taxes. It is not our purpose to disfranchise anybody who aims to pay his poll tax, but if he pays all the poll taxes during any year up, even if he misses four or five years, if he comes in and pays all his poll taxes, we have no disposition to disfranchise him. I think I have made myself sufficiently understood. By reading it you will see that if a man fails to pay at any time or fails within a year to pay his poll tax and in any subsequent year pays all the poll taxes accrued against him, he shall be allowed to exercise the franchise. It is not our purpose to disfranchise any one permanently because he fails to pay poll tax. I move, therefore, that the amendment be laid upon the table.

Mr. LOWE: May I ask the indulgence of the gentlemen of the convention for a moment? It is merely on account of the remark of the gentleman just before he took his seat.

The PRESIDENT: Does the gentleman from Greene withdraw——

Mr. COLEMAN: For the present.

Mr. LOWE: Does the gentleman understand it is the purpose of my amendment to disfranchise a man who fails to pay his poll tax—permanently disfranchise him?

Mr. COLEMAN: It seems to have that effect to me.

Mr. LOWE: That is not the intention of the amendment as I understand. The provision as covered by my amendment—we come to a general election. No man can vote in that general election who has not paid his poll tax within the time required each year since the last general election. He loses his vote only in that general election but in the general election succeeding that, if he has paid his poll tax within the time prescribed each year, in which it is due he would be entitled to vote, and there is no permanent disfranchisement.

Mr. COLEMAN: I can only say that the purpose of the committee was not to disfranchise a man who paid up all poll tax due from him; that he should not lose his right to vote if he paid by the first day of the next preceding February. There is no provision there by which if he becomes disfranchised he can be enfranchised again. By reading this provision you will see that it is clear. He is required on the first day of February to pay his poll tax, and he is required to pay at each subsequent year at that time, but if he gets in arrears one, two, three or four years and pays up his poll tax he has the right to exercise the franchise. I move to lay the amendment on the table.

Upon a vote being taken a division was called for. And by a vote of 77 ayes and 27 noes the motion to table prevailed.

Mr. ASHCRAFT: I have an amendment.

Secretary read the amendment as follows: "To amend Section 2, by striking out of the first line the words 'a citizen' and insert 'an elector.' "

Mr. ASHCRAFT: The purpose of the amendment is simply this: We have so amended the first section as that other persons than citizens may vote and we certainly would not want any confusion about what is meant by Section 2. Those persons who are not citizens and who are entitled to vote certainly ought to be subjected to the same requirements as citizens.

Mr. GRAHAM (Talladega): Mr. President, I would like to ask the gentleman from Lauderdale if an elector is not already a voter?

Mr. ASHCRAFT: Sir?

Mr. GRAHAM: I would like to ask if an elector is not already a voter. I understand your amendment to read "an elector," entitling an elector to vote.

Mr. ASHCRAFT: That is true, if he has all the qualifications that make an elector in the first section, but he cannot exercise the right of an elector, unless he fulfills the conditions in the second section. The first tells what shall be an elector, and citizens and persons who have declared their intention to be citizens or electors. He may be registered and still, if he fails to pay his poll tax he is not entitled to vote, although he has all the qualifications of an elector, and Section 2 refers to just such omissions as that of using the term elector instead of citizen.

Mr. GRAHAM: Would not he have to be a citizen?

Mr. ASHCRAFT: No, sir; he may be a citizen, or a person who has declared his intention to become a citizen.

Mr. COLEMAN: Section 1 reads as follows, as amended:

"Every male citizen of this State, who is a citizen of the United States or who has declared his intention to become a citizen of the United States." It requires that a citizen of the State only can vote. To entitle a citizen to vote is exactly in harmony with what is already provided in Section 1. I therefore move to lay the amendment on the table.

Mr. PILLANS: I would ask if the gentleman will not withdraw that a moment. I think I can satisfy him that he is in error.

The PRESIDENT: Will the gentleman withdraw at the request of the gentleman from Mobile?

Mr. PILLANS: I will withdraw the request. I can offer it independently as a section.

Mr. ASHCRAFT: I yielded to the gentleman for the purpose of asking a question. I did not yield for the purpose of making a motion to table.

The PRESIDENT: It seems to the chair that the point is well taken. He is entitled to the floor.

Mr. COLEMAN: I recognize it.

The PRESIDENT: The question is on the motion to table the amendment of the gentleman from Lauderdale.

Mr. HOWELL: I have an amendment to Section 2.

"Amend by striking out the word 'two' in the second line and inserting in lieu thereof the word 'one;' also strike out the words 'one year,' in the same line and insert the words 'six months.'

Mr. HOWELL: Mr. President, if I remember correctly I have been a voter in Alabama for nearly fifty years, and that has been the law all these years, requiring a residence in the State for one year, and six months in the county. I think that is the provision in our present constitution, and I see no good reason why we should change it. Therefore, I move the adoption of the amendment.

The PRESIDENT: The question is upon the amendment offered by the gentleman from Cleburne.

Mr. DE GRAFFENREID: I move to lay it on the table.

Mr. PROCTOR: I move that the amendment be laid on the table.

The motion to table was carried.

Mr. PILLANS: I offer this ammendment: "Amendment to Section 2 was read as follows: "Amend Section 2 by striking out of the first line thereof the words 'a citizen' and insert in lieu thereof 'a person.' "

The PRESIDENT: The question is upon the amendment offered by the gentleman from Mobile.

Mr. PILLANS: I regret that my voice is not in very good shape for presenting my views to the convention, but I am so persuaded that an error will be committed by the adoption of this section, if the first line is unchanged, that I offer this amendment. I know the chairman of the committee has stated in his statement here to the convention that persons who are authorized to vote by the first section are declared to be citizens of Alabama.

Mr. DE GRAFFENREID: I want to call your attention—It has been adopted already by the convention, under the Bill of Rights in Section 3.

Mr. PILLANS: I think if the chairman of the Bill of Rights Committee is here, he will bear me out that we struck out that

entire section. We had in the old constitution, the existing constitution of the State of Alabama an absurd provision and an unconstitutional provision that every person who has declared his intention to become a citizen was a citizen of the United States and a citizen of Alabama; that was absurd, because unconstitutional under the Federal Constitution, which distinctly declares that Congress alone should pass uniform laws of bankruptcy and naturalization, wherefore the Alabama Constitutional Convention of 1875 erred grievously in attempting to make an unnaturalized person a citizen of the State of Alabama. Well, we have not done that today. We have been wiser than they. We have struck out that absurd proposition from the projected constitution, and we have no pretense in this constitution that a person who is not a native born in the United States, or one who is naturalized by the processes provided by the act of Congress can become a citizen. We have struck down any other idea. Now comes the suffrage report, harmonized as originally written, and I have no complaint of it as originally written, but we have amended it this very afternoon by declaring that persons who may vote shall be male citizens of the State who are citizens of the United States, or foreigners not citizens of the United States who have declared their intention to become citizens, so far as those foreigners have so declared prior to the ratification of the constitution. Now, I undertake to say, and I say it without the fear of successful contradiction from the chairman of the committee or any other member on the floor, that does not make of those persons so privileged, who have declared their intention prior to the adoption of this constitution, citizens of this State. They do not become citizens of Alabama and they cannot be made citizens of Alabama until you strike down the Federal Constitution. I heard an argument this morning that led me to suppose that some of the members of the convention seem to think that we can traffic with the Constitution of the United States as we will, and even repeal the Fifteenth Amendment, but I do not think this convention is of that opinion. Now as we cannot strike down the Constitution of the United States, and cannot make citizens out of aliens except by the power furnished by Congress, their declaration of intention and five years' residence, and adjuration of their former allegiance to the foreign country from which they came, then it goes without saying that persons whom we have undertaken to privilege as electors in this State, aliens, by the action taken on the amendment adopted this afternoon, are not citizens of the United States, and therefore if this provision stands as it does, you will put burdens on your native born and naturalized citizens that you do not dream of putting upon your unnaturalized citizens who

have simply gone through the form of declaring his
32 intention to become a citizen.

Mr. BLACKWELL: If the gentleman will allow a question, suppose a citizen, a person, should come here and upon landing should declare his intention to become a citizen the day he landed, and thereafter he should come to the State of Alabama with that declaration, could not he vote immediately without staying here two years?

Mr. PILLANS: I think so, if you declare that all persons declaring their intention to become citizens prior to the ratification are electors. Elector is the word used, and elector means entitled to vote, but, in the first section you put an additional burden on the citizens and I do not think that is right.

Mr. BLACKWELL: I will ask the gentleman the additional question, if that would not be giving to the foreigner who has just landed and knows nothing of our government privileges we are denying to the citizens of Alabama?

Mr. PILLANS: Of course.

Mr. COLEMAN (Greene): This was written as a whole altogether, and I believe after hearing the gentleman from Mobile, the committee is prepared to accept the proposition offered by him.

Upon a vote being taken, the amendment was adopted, and upon a further vote the section as amended was adopted.

Section 3 was read as follows:

SECTION 3. All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be viva voce.

Mr. COLEMAN (Greene): I move the adoption of the section.

Upon a vote being taken the section was adopted.

Section 4 was read as follows:

SECTION 4: The following male citizens of this State, who are citizens of the United States, 21 years old or upwards, who, if their place of residence shall remain unchanged, will have, at the date of the next general election, the qualifications as to residence prescribed in Section 2 of this article, and who are not disqualified under Section 6 of this article, shall, upon application, be entitled to register as electors prior to the first day of January, 1903, namely:

First—All who have honorably served in the land or naval forces of the United States in the war of 1812, or in the war with Mexico, or in any war with the Indians, or in the Civil War between the States, or in the war with Spain, or who honorably served in the land or naval forces of the Confederate

States, or of the State of Alabama in the war between the States; or

Second—The lawful descendants of persons who honorably served in the land or naval forces of the United States in the war of the American Revolution, or in the war of 1812, or in the war with Mexico, or in any war with the Indians, or in the Civil War between the States, or in the land or naval forces of the Confederate States, or of the State of Alabama in the war between the States; or

Third—All persons of good character and who understand the duties and obligations of citizenship under a republican form of government.

Mr. SANFORD (Montgomery): I have an amendment.

The PRESIDENT: The Secretary will read the minority report.

Mr. OATES: I have an amendment to offer to a part of the section that precedes the minority report. I desire to offer an amendment to insert a word in line three.

Mr. HOWZE: I think it should be taken up by subdivisions.

The PRESIDENT: Probably it would be more convenient to discuss it first as a complete section.

Mr. OATES: Is it not in order to offer an amendment to the first part of the section before reading the subdivision.

The PRESIDENT: The Chair will consult the wishes of the minority committee. The regular order under our rules would be when this section is read, to consider the minority report as an amendment, but if the gentlemen making the report wish to offer another amendment they may do so.

Mr. OATES: It is not touching that, Mr. President. I want to offer a short amendment which I think aids in perfecting the first part of the third line of this section.

Mr. SANFORD (Montgomery): The amendment which I propose does not reach the second section to which the minority report is addressed.

The PRESIDENT: To what section does it refer.

Mr. SANFORD: It reaches the first subdivision of Section 4.

Mr. COLEMAN: I desire to amend Section 4, in the first line, in accordance with the amendment which has already been made to Section 1, so as to make them correspond.

The PRESIDENT: The chair will first entertain amendments offered by the chairman of the committee. The amendment was read as follows:

"Amend by adding after the words 'United States' in the first line of Section 4, the following words: 'And every male

person of foreign birth who, before the ratification of this constitution, may have legally declared his intention to become a citizen of the United States; provided, that all such foreigners who have declared their intention to become citizens of the United States shall cease to have the right to vote if they shall fail to become citizens of the United States after they are entitled to become such citizens.' "

Mr. COLEMAN: I ask unanimous leave to make that amendment.

There being no objection, the amendment was allowed.

Another reading of the amendment was called for.

Mr. COLEMAN (Greene): The word "person" should read "resident." You could not mean a man residing in Nebraska, but it should refer to a resident of this State.

By consent, the amendment was amended to read "every male resident of foreign birth," etc.

Mr. BEDDOW: I ask unanimous consent that the word "resident" be inserted in the amendment offered by me to Section 1.

There being no objection, the amendment was ordered.

Mr. ASHCRAFT: Section 2 provides "who shall have resided in this State two years." I do not see why it should be necessary to use the words prior to that, because before he is entitled to vote he must have resided in the State two years.

Mr. WEATHERLY: I desire to ask if that amendment applies to Section 1.

Mr. COLEMAN (Greene): We are trying to make them correspond.

Mr. WEATHERLY: The chair did not so state it, or at least I did not so understand it.

The PRESIDENT: The chair stated that the gentleman from Jefferson desired his amendment to be so altered as to make it read "every male resident," instead of "person."

Mr. COLEMAN (Greene): According to the procedure heretofore adopted to take up sections which are sub-divided, subdivision by sub-division, as the minority report is directed simply to the second sub-division and not to the first, if we pursue the course heretofore followed, we must consider the first sub-division of the section, and when we come to the second sub-division to which the minority report applies, then the minority report would come up for consideration. That seems to have been the course heretofore pursued, and it would be acceptable to the committee, and I suppose to the chairman of the minority of the committee.

Mr. OATES: I would like to offer an amendment to line three of Section 4, which, I think, needs a few words to make it more definite.

The PRESIDENT: The chair will state under the rule the convention is considering this article by section and not by paragraph.

Mr. OATES: It is not a paragraph, but in line three of Section 4 of the section, at the beginning of the section.

The PRESIDENT: The gentleman will send up his amendment.

The amendment was read as follows:

"Amend Section 4, in line three, by inserting after the word 'election,' the following, 'after the ratification of this constitution.' "

Mr. OATES: I offer that because I think it will make it more definite and certain. The next general election is not absolutely certain, it ought to be after the ratification of this constitution.

Mr. MERRILL: I rise for the purpose of making a motion to suspend the rules that we may continue in session.

There were loud expressions of dissent.

Mr. CARMICHAEL (Coffee): I move that this convention be now adjourned.

The motion was carried and the convention adjourned.

Official Report of the Proceedings of the Constitutional Convention of Alabama.

33 Fifty-third Day.

MONTGOMERY, ALA., *Wednesday, July* 24, 1901.

The convention met pursuant to adjournment, was called to order by the President, and opened with prayer.

Mr. CHAPMAN: I make a motion to reconsider the vote of yesterday by which the amendment to Section 1 was adopted. I refer to the amendment offered by the delegate from Jefferson, Mr. Beddow, and that carries with it, of course, the amendment as offered by the gentleman from Mobile, Mr. Smith. I desire both of those votes—desire to move for the reconsideration of both of those votes, but do not desire to press it at the present time. It is suggested and perhaps it is better to move for a reconsideration of the vote by which the section as amended was adopted. I am not familiar enough with the rules of the convention to say whether or not it is to be taken up now, or has to be postponed.

The PRESIDENT: This will be the proper time for the consideration of the motion. The chair understands the gentleman moves the reconsideration of the action of this convention

whereby Section 1 was adopted as amended, and the gentleman will ask to reconsider the vote whereby the convention engrafted upon this section certain amendments.

Mr. CHAPMAN: Mr. President, that is the purpose of the motion. It seems to me that the convention acted a little hastily yesterday in engrafting these amendments particularly the amendment offered by the gentleman from Jefferson. If that is to be adopted, I, of course, favor the amendment offered by the gentleman from Mobile, because I do not believe that the amendment offered by the gentleman from Jefferson should be adopted at all, unless it is amended as provided in the amendment offered by the gentleman from Mobile, but Mr. President, it seems to me that we acted rather hastily in admitting, we may say, foreigners to vote in our elections. It is true under the old constitution, we have been doing that to some extent, but I see no reason why we should make this exception for the very few who are here now, and who have taken steps to become naturalized. I do not know how many there are in the State. I presume not very many, but even if there were a goodly number, I see no reason why they should be allowed to vote now unless it be under the reason given by the gentleman from Jefferson that they have taken steps to become naturalized and have qualified themselves under the present constitution to vote and in pursuance of the party pledge the right is claimed. Certainly there can be no other reason in my mind for granting them the privilege of suffrage.

Mr. SANFORD: They can complete their naturalization then, can't they?

Mr. BEDDOW: That question was fully discussed on yesterday and I do not care to take up the time of the convention to further discuss it. Therefore, I move that the motion of the gentleman be laid upon the table.

Mr. COLEMAN: Withdraw that for a moment.

Mr. BEDDOW: I will.

Mr. WADDELL: I rise to a point of order. The motion to reconsider is not debatable.

The PRESIDENT: The gentleman's point of order is not well taken. This is the time that the rules prescribe for the consideration of the motion to reconsider. It shall be made at any time during the morning session, but the time that is usually devoted to reconsideration is immediately after the approval of the journal, and a motion to reconsider is debatable. The gentleman's point of order is overruled.

Mr. COLEMAN: Mr. President, according to the rules this is the proper time when the consideration of the question involved in the motion by the delegate from Sumter should be

discussed. There is no reason, however, why the convention may not suspend the rule if it sees proper and postpone the consideration to some future time. Now, it is impossible for delegates, I care not how learned they are, how bright they are, to comprehend the legal meaning and effect of the proposition which involves so much as the amendment which has been adopted, simply at a glance or hearing them read. If it be true that the section without amendment disfranchises any person who should not be disfranchised under the pledge of the Democratic party I for one, do not want it reconsidered. What I desire is that the delegates of this convention may have time to reflect and investigate if they see proper, and if after consideration and investigation they should come to the conclusion that it would not be a violation of the pledge of the Democratic party, it may be, and I may say that I am assured there will be many who will favor the section, as reported by the Committee on Suffrage. My purpose is simply to have the discussion of this question postponed, so that we may all those of the committee who have investigated for themselves and delegates of the convention who had not had time to investigate it—may satisfy themselves upon this question, and I assure you for one, that if it be true that any man will be disfranchised, contrary to the promise and pledge of the Democratic party, I will not support the reconsideration, but if it be true that the section does not disfranchise any, but that these parties exercising the right that they have, and that every citizen of Alabama has, who may disfranchise himself if he sees proper, because Mr. President, any voter may disfranchise himself, if he declines to register or claim his privilege and these parties may disfranchise themselves if they decline to prosecute their right to naturalization, that is simply the question to be considered I move therefore, the suspension of the rules that this question be postponed, to be taken up, at the will of the convention during the further consideration of the article now before us.

The PRESIDENT: It seems to the chair that it would be in the power of the convention to postpone the further consideration of this motion, or to set it for any day when the convention would desire to further consider it, without a suspension of the rules.

Mr. COLEMAN: That would be my motion then.

Then I move, Mr. President, that we take it up for consideration as soon as we have disposed of the qualifications of voters.

The PRESIDENT: That is covered by Section 4?

Mr. COLEMAN: Four I believe, perhaps 5.

Mr. SAMFORD (Pike): After Section 6.

Mr. COLEMAN: After Section 6.

The PRESIDENT: The gentleman from Greene moves that the further consideration of the motion to reconsider the vote whereby Sections 1 and 2—was not this amendment put upon Section 2.

Mr. COLEMAN: If Section 1 is reconsidered the other amendments follow as a matter of course.

Mr. BEDDOW: One and four.

Mr. COLEMAN: One and four and five.

The PRESIDENT: The chair recollects it was found necessary to make this same amendment to another section.

Mr. COLEMAN: Section 4, and it would be necessary also in Section 5, but if it is reconsidered, those questions can be easily disposed of.

The PRESIDENT: Does the gentleman from Sumter make his motion apply also to Sections 1 and 4?

Mr. CHAPMAN: To all the sections that have been amended in this way.

The PRESIDENT: The votes whereby the amendments were adopted?

Mr. CARMICHAEL (Colbert): Section 4 was not amended, there was an amendment pending to Section 4, but it was not amended, and therefore, it would not be necessary to move a reconsideration as to that section. The amendment was not adopted.

The PRESIDENT: This amendment was only added to one section.

Mr. CARMICHAEL (Colbert): Only to one section.

Mr. CHAPMAN: Mr. President, I will include in my motion to reconsider as has been suggested to me, the word "person" in the first line of the second section was inserted in lieu of the word "citizen" to conform to the amendment which had been adopted.

The PRESIDENT: That is the recollection of the chair. It was inserted in Section 2.

Mr. CHAPMAN: Yes, sir, and I will include in my motion to reconsider Section 2, so as to embrace exactly the same question.

The PRESIDENT: The motion is that the further consideration of the motion to reconsider shall be postponed until the convention shall dispose of the sections of the article, up to and including Section 6.

A vote being taken, the motion was carried.

The convention here took up the special order, being the consideration of the report of the Committee on Suffrage.

Mr. SAMFORD (Pike): Are amendments in order to Section 4?

The PRESIDENT: The Chair is informed that there are two amendments already pending.

Mr. SAMFORD (Pike): I rise to a point of information.

The PRESIDENT: The gentleman will state his point.

Mr. SAMFORD (Pike): It is this, under the rules that we have been following, whenever two amendments have been offered to a section, that cuts off other amendments. Now here we have a section with several sub-divisions—the captions of the sections and several subdivisions. Will the two amendments to the whole section cut off any amendment to any other portion to the section that are not effected by those amendments at all, and if that be so, we are liable to lose the right to amend portions of the section which probably ought to be amended by a motion to put the previous question upon the section and amendment, and in that way it occurs to me that some amendments which it might be well to have made would be lost.

Mr. HARRISON: Mr. President, I rise to a point of information——

The PRESIDENT: The chair will say in reply to the suggestion of the gentleman from Pike. Under the rule we are considering this article section by section. As the section now under consideration involves the whole plan of suffrage, or practically the whole plan it might too much restrict the scope of the debate to take it up paragraph by paragraph, but it might be taken up after the debate is concluded, paragraph by paragraph, to enable members to offer amendments to be considered without debate. Delegates might indicate what amendments they thought desirable, during such debate as may be allowed upon the section.

The PRESIDENT: I recognize the gentleman from Lee.

Mr. HARRISON: I rose a moment ago to propose that we consider the section paragraph by paragraph, but the suggestion of the chair after I roce obviates the difficulty. It occurs to me that at some stage it should be considered paragraph by paragraph. There is no objection, however, to the suggestion of the chair, and it may perhaps be better.

Mr. OATES: I understand it. I have no disposition to obstruct or delay the debate which will occur on the second paragraph. I have an amendment, however, which I wish to offer to the first paragraph if that will be in order after the measure is disposed of, I will not offer it now, but hold it, and now withdraw the amendment I offered on yesterday evening. In respect to that amendment, it was offered simply to make the meaning of that part of Section 4 more definite, but I have con-

ferred with other members who think it sufficiently definite and I propose to withdraw that amendment.

THE PRESIDENT: The gentleman from Montgomery asks unanimous consent to withdraw the amendment offered by him on yesterday. Is there objection? The chair hears none.

Mr. OATES: Then I suppose I will have to write my amendment in the paragraph after the section has been considered?

The PRESIDENT: It seems to the chair we are considering the whole section, and the debate would be addressed to the whole section, for the purpose of amendment it will be taken up for consideration, paragraph by paragraph when the time comes.

Mr. OATES: I will not be precluded from offering an amendment to paragraph 1 after that?

The PRESIDENT: The chair thinks you would not be. The whole section is now open for amendment.

Mr. SANFORD (Montgomery): I wish to offer an amendment to the first subdivision to Section 4.

The PRESIDENT: The chair will call the attention of the gentleman from Green to the fact that he has an amendment pending to this section bearing upon the same subject which he moved to have postponed this morning. Does he desire that this amendment be also postponed for consideration?

Mr. COLEMAN: Just as well be, because it will all be referred to, Mr. President.

34 The PRESIDENT: If a motion to reconsider should prevail, and the original amendment defeated, there would be no necessity for this amendment?

Mr. COLEMAN: Not at all.

The PRESIDENT: The gentleman from Greene moves that the further consideration of this amendment—you might withdraw it?

Mr. CARMICHAEL (Colbert): I move that it be laid upon the table and be taken up with the others.

The PRESIDENT: The question will be upon the motion to lay the amendment upon the table.

Mr. COLEMAN: The chairman has no preference at all with regard to this question. If it is put upon the table, it can be called up at the pleasure of the convention, and that will satisfy the chairman. The idea I had in view was to move on consistently, and amend the sections as we reached them, in accordance with Section 1 as amended, knowing full well it would be an easy matter if Section 1 was reconsidered to strike out the amendment of the other. It would not require any discussion at all to make them consistent.

The PRESIDENT: It could not be stricken out after being incorporated in the section without a motion to reconsider the vote whereby it was incorporated and if the time for reconsideration should expire, it might complicate matters.

Mr. COLEMAN: I will withdraw it from before the convention.

The PRESIDENT: The gentleman may withdraw it, or it may be adopted, and reconsidered, any time during the morning session tomorrow.

Mr. SAMFORD (Pike): If you will pardon the suggestion, it appears to me if the amendment is tabled, it may be taken up at any time.

The PRESIDENT: If in the meantime the section is adopted, it could not be incorporated in it, if the time for consideration has expired. The chair would suggest that the gentleman enter a motion to reconsider it and it may be set for the same time as the other.

Mr. COLEMAN: That is my idea—to sweep consistently all the way through.

Mr. CARMICHAL (Colbert): I withdraw my motion to table.

The PRESIDENT: The gentleman from Colbert asks unanimous consent to withdraw his motion to lay upon the table. Is there objection?

There being no objection the motion to table was withdrawn.

The PRESIDENT: The question will be on the amendment of the gentleman from Greene.

Mr. COLEMAN: That amendment simply makes Section 4 harmonize with Section 1, as already adopted. I move the adoption of the amendment.

Upon a vote being taken the amendment was adopted.

Mr. COLEMAN: If proper now, I will move to reconsider, and that reconsideration be postponed until after Section 6 is disposed of.

The PRESIDENT: The gentleman from Greene moves to reconsider the action whereby the convention adopted the amendment as proposed, and that further consideration of the motion to reconsider be postponed, until after Section 6 is disposed of.

A vote being taken, the motion to reconsider and postponing consideration was adopted.

Mr. SANFORD (Moatgomery): I have an amendment to offer to the first subdivision of Section 4.

The clerk read the amendment as follows: "Amend by striking out the world 'civil' before the words 'war between the States' in the ninth line of said subdivision; also to strike

out the word 'civil' before the words 'war between the States' whenever it occurs in each subsequent section or subdivision of said report.

Mr. COLEMAN: I accept that amendment on behalf of the committee. I am authorized to do that.

The PRESIDENT: The question will be upon the amendment offered by the gentleman from Montgomery. The chairman of the Committee on Suffrage and Elections indicates that the committee has no objection to the amendment.

Mr. HARRISON: I desire to have it read.

Mr. COLEMAN: It is to strike out the word "civil" so as to read "war between the States," it makes no difference in the world, and my purpose is to get along with business.

A vote being taken, the subdivision as amended was adopted.

Mr. SAMFORD (Pike): I have an amendment I wish to offer. The clerk read the amendment as follows: "Amend Section 1 by striking all out after the word "electors" in the fifth line.

Mr. SAMFORD: I do not desire to discuss that matter, I simply desire to say for the delegates it makes the registration plan permanent instead of temporary, with regard to the voters provided for in this section. That is all I desire to say. The amendment makes the registration plan under this section permanent instead of ending with January 1st, 1903, that is all the change.

The PRESIDENT: The question is on the amendment offered by the gentleman from Pike.

Mr. SOLLIE: I have an amendment which I offer as a substitue for his amendment.

The PRESIDENT: The chair has recognized the gentleman from Barbour.

Mr. DENT: I do not propose to take up a great deal of the time of the convention. I do not think I have any record for long speeches and if the delegates will pay attention to the few words I have to say, I can say them in less time than that which the convention has allowed to the discussion of this question to every member. Under ordinary conditions, Mr. President and gentlemen of the convention, I should hesitate very much to set up my judgment against the judgment of the large number of gentlemen on this floor who differ with me on this proposition, but representing, as I believe, the sentiments and wishes of my own people, and representing as I know I am my own judgment and my own conscience, I feel that it is my duty to put myself on record as being opposed to that section of the majority report which the minority report proposes to strike from that report. As I said, this is my judg-

ment, and my conviction, of what I ought to do, and I do this with the greater confidence because I have found in my intercourse and association, with the delegates of this convention that they are men who, as a rule, vote according to their own judgment and according to their own convictions, without regard to the judgment, opinion, or conviction of any one else. I am glad to say that this convention has set up no fetish which they blindly follow, that every man votes for himself and according to his own judgment, and that is what I propose to do upon this occasion. Now, I shall very briefly discuss my views in reference to the unconstitutionality of this provision as compared with the provisions of the Constitution of the United States. I do so as I say with hesitation, but I do so because it is my own judgment and my own conviction that it is in conflict with the Constitution of the United States. Now, Mr. President and gentlemen, what are the provisions of the Constitution of the United States—

Mr. COLEMAN (Greene): Just one question—

The PRESIDENT: Will the gentleman from Barbour yield?

Mr. DENT: Certainly.

Mr. COLEMAN: You are addressing your remarks as I understand, now to the second subdivision?

Mr. DENT: Yes, sir, the descendant clause. I thought everybody understood that.

The PRESIDENT: The chair will state to the convention that there is pending an amendment on the part of the minority of the committee to strike out this subdivision to the section, and an amendment to the amendment offered by the gentleman from Pike to strike out certains parts of the section, the effect of which would be to make the temporary plan permanent, as I understand.

Mr. OATES: The minority report that the motion has not been read and laid before the house formally. It is the customary rule before discussion.

The PRESIDENT: It has not been the custom when the article is taken up for consideration to read the report of the committee, it was read in full before the convention when it was filed, but the secretary did read the motion which the minority made at the conclusion of the report.

Mr. OATES: I suppose it makes no difference.

Mr. DENT: In order that I may be fully understood, I will read the clause which the minority report proposed to be stricken out.

The PRESIDENT: The secretary will read the section.

Mr. CHAPMAN: I rise to a parliamentary inquiry. Has the first clause of this section been passed upon at all—the first subdivision?

The PRESIDENT: No sir.

Mr. CHAPMAN: Is that to be passed over until after the second is acted upon?

The PRESIDENT: The chair stated for the information of delegates that for the purposes of general debate upon this section, the whole section would be considered as before the convention, and the different amendments, and when debate is concluded, the convention takes up this section to be voted upon, it will be considered paragraph by paragraph, when amendments may be offered, to be voted upon, without debate, and that delegates who desire to offer amendments may refer to their amendments while they are discussing the general question.

Mr. DENT: At I was proceeding to say, I propose briefly to give, the reasons why I believed this clause is in contravention of the Constitution of the United States. We have certain rules that have been laid down for the construction of matters of legislation, laid down by the Supreme Court of the United States, and one of them is a rule with which everybody is familiar, that every man intends the natural and reasonable consequences of his own acts. Now take that clause under consideration and let us see how that rule applied to it would affect it. That rule I will read briefly in a case reported in 113 U. S. Reports, page 759. That rule is laid down by, I suppose, as distinguished judge as ever occupied the Supreme Bench, Mr. Justice Field of California. I will read it: "The rule is general with reference to the enactment of all legislative bodies, that courts cannot inquire into the motives of the legislators in passing them, except as they may be disclosed on the face of the acts, or inferrable from their operation, considered with reference to the condition of the country and existing legislation. The motives of the legislators considered as to the purposes they had in view, will always be presumed to accomplish that which follows as the natural and reasonable effects of their enactments."

Now, Mr. President, you take the clause under consideration, "The lawful descendants of persons who have honorably served in the land or naval forces of the United States in the war of the American Revolution, or in the war of 1812, or in the war with Mexico, or in any war with the Indians, or in the war between the States, or in the land or naval forces of the Confederate States, or of the State of Alabama, in the war between the States."

Now, I ask what is the natural and reasonable effect that will follow that provision if adopted? By way of illustration, to make my meaning clear, say that we had a clause in this provision which said that the descendants of the settlers of this country, of all the immigrants who came to this country

from European countries, that the descendants of all these people should be voters in the State of Alabama. I ask any candid gentleman on this floor if the effect of that would not be practically to limit suffrage to white people in the State of Alabama. Now, if there was no provision in the Constitution of the United States, that forbade us making such a rule, it could be done, but I say, it seems to me that the natural and reasonable effect of such a provision as that would be to make white voters and white voters alone in the State of Alabama. Now this provision may narrow that rule to some extent, but I ask you, as reasonable men, does it not have the same tendency, natural and reasonable effect that all who apply for registration under this provision will be white people. Now, for these reasons, I shall briefly pass on—those are the reasons that influence me, I cannot see how we can get around it. I do not see how it can be made plain not to be in conflict with the Constitution of the United States. They lay down three rules. They say that you must not discriminate against a negro on account of his race, second, on account of his color, and third, on account of his previous condition of serviture. Now you take the practical application of this. What chance could the negro have to come in under this article when he was in a condition of servitude and could not become a soldier in the wars to which reference is made here. You are reasonable men, you are thinking men. I throw out these suggestions and pass on, because, as I said, I do not propose a long speech. But there are other objections to this amendment. For myself, I believe that it violates one of the great fundamental doctrines of republican government, I believe that it is in contravention to the spirit that has animated the people of this country from the Declaration of Independence down to this time, and in support of that, I ask the indulgence of the convention for a few moments, while I refer to the report of the Committee on Preamble and Declaration of Rights. If you have that before you, I would be very glad if you would turn to a section of that report and read it in connection with the report of the Committee on Suffrage. We have just adopted this section: "Section 30. That no title of nobility or hereditary distinction, privileges honor or emolument s. ever be granted or conferred in this State, and that no office shall be created the appointment to which shall be for a longer time than during good behavior." There was no dissent in the adoption of that section in this convention. That is as much as I want to read, because that is all that has any application. Now, I ask the gentlemen of this convention, does not this section under consideration grant an heredity right or privilege to the sons of those who were soldiers in the wars referred to. If that is not its meaning, I must confess that I do not understand

ie force and effect of the English language. Isn't it hereditary distinction to say that because a man was a soldier, his son shall be entitled to register and vote without any regard to his qualification whatever. know it can be said that while we lay down these eneral rules that a particular exception in the constitution would be invalid. I ask the grave and intelligent gentlemen who compose this convention if it would be a creditable ing to do, to make a broad statement of a general proposition, and then turn right around and violate it in spirit, in rinciple and in letter. If you are going to adopt this clause the report on suffrage, it seems to me that you should go ack and reconsider and change article XXX of the bill of ghts. And further, if you will turn to the old constitution, the last clause of the bill of rights, that reads as follows: That these enumerations of certain rights shall never impair deny others retained by the people."

That was the clause in the bill of rights, the last clause as ntained in the constitution of 1875. The committee to hom that part of the constitution was referred not only reorted that clause as placed in the constitution of 1875, but ey have added another in order to make the great declaraon which is contained in this preamble and bill of rights ore emphatic. I beg your attention while I read it. "That is enumeration of certain rights shall not impair or deny hers retained by the people," that was the way it was in the l constitution. Now observe what has been added: "And guard against any encroachment on the rights herein reined, we declare that everything in this declaration of rights excepted out of the general powers of government and shall rever remain inviolate."

I ask any gentleman if there is harmony between those secons of the bill of rights which I have read and the report the Committee on Suffrage which is under discussion. If u adopt this clause, it does seem to me that in justice to this nvention, in justice to its attainments and knowledge, that ought not to send out to the people of the State of Alabama ch antagonistic provisions in the same constitution. For ese reasons, Mr. Chairman, I advocate the striking out of at clause of the report of the Committee on Suffrage, and at is all I wish to say now. I desire, Mr. Chairman, to reve whatever time I may not have consumed, if I can do so, thin the rules.

The PRESIDENT: The chair would be very glad to place time the credit of the gentleman, but he will have to place it to credit of the people.

Mr. DENT: Well, I just wanted to know if that could be ne.

Mr. O'NEAL (Lauderdale): Mr. President, the problem which the Fourteenth and Fifteenth Amendments to the Federal Constitution forced on the States of the South was the most momentous ever submitted to a free people. In the language of one of her greatest sons, "It is a problem in solving which the South must stand alone, in dealing with which she must come closer than ambition or despair have driven her, and on the outcome of which her very existence depends. This problem is to carry within her body politic two separate and distinct races, and nearly equal in number. She must carry these races in peace, for discord means ruin. She must carry them separately, for assimilation means debasement. She must carry them in equal justice, for to do this she is pledged in honor and gratitude. She must carry them to the end, for in all human probability she will never be quit of either."

To solve this problem, to remedy the existing evils of an unrestricted and debauched suffrage, and to secure for ourselves and posterity the benefits of enlightened government and of pure and lasting freedom, was the paramount object of this convention. That was the chief inducement by which the people's consent to our being here was obtained, and that was the charge and duty with which we were invested and which we would be recreant to our solemn trust did we not perform faithfully and efficiently. Mr. President, realizing these facts, and recognizing their weight, the Committee on Suffrage approached its task of ballot reform, with all its immense and grave responsibilities, with its certain consequences for good or ill plainly before them, knowing that the very life of the State depended on the wise and permanent solution of this problem. Mr. President, we cannot afford to fail; we must accomplish the redemption of our elections from the incompetency of the electors; from fraud in their management, and make permanent and secure honest and efficient government in Alabama.

No committee ever labored more earnestly, more faithfully, with a more profound sense of the gravity and importance of its work, and we lay before you our completed task, which carries out every pledge, which violates no provision of the Federal Constitution, and the adoption of which we sincerely believe will purify our electorate, will remove forever the necessity of methods which can no longer meet our approval, and will mark the commencement of an era of better government, or more lasting peace and prosperity in Alabama.

Mr. President, the movement for a constitutional convention in this State was but the protest of the people of Alabama against a condition of affairs that had grown intolerable. The right of a sovereign State to regulate and control the suffrage of its citizens was older than the constitution. Even in colon-

times the right to vote had been regulated by the several emblies and not by Parliament, and was not surrendered en the Federal Union was formed. When, after the close he civil war, the victorious North flushed by its triumph, mated by hate and passion and to humiliate and degrade South, attempted to strike down this paramount and sov- gn right of the States, it undertook to reverse the practice he country since the foundation of the Federal Government, even a more remote past. Fortunately, the radical major- that then dominated Congress were confronted by a small able body of lovers of constitutional government, who re- ed, step by step, the efforts of the majority to pass an endment which would place the control of all elections com- tely under the control of Congress and prevent the States n ever exercising any voice in the qualifications of its vo- s. Had the amendment finally passed as amended in the ate the States would have been powerless to regulate or trol the suffrage, and Congress alone would have domi- ed all elections and the qualifications of voters.

he first step in this discussion will be to ascertain from the ates in Congress, and the history of the Fifteenth Amend- t its purposes and object.

he first resolution, afterwards known as the Fifteenth endment, was the Boutwell resolution. It was first dis- sed in the House of Representatives in Congress on the n day of January, 1869. Its language was as follows:

SECTION 1. The right of any citizen of the United States to e shall not be denied or abridged by the United States or State by reason of race, color, or previous condition of very of any citizen or class of citizens of the United States.

SEC. 2. That Congress shall have the power to enforce by per legislation the provisions of this article."

n the debate on this resolution, it was claimed it did not far enough, and it was asked whether it would prevent any te from requiring property or educational qualification of voters, and to remedy this defect, several amendments were posed, their common purpose being to prevent the exclu- of any male citizen 21 years of age or over from the right ote for any cause except crime. One of the principal substi- s was offered by Shellabarger as follows: "No State shall ke or enforce any law which shall deny or abridge to any e citizen of the United States of the age of 21 years or r, and who is of sound mind, an equal vote at the election he States in which he shall have such actual residence, hall be prescribed by law, except to such as have engaged nay engage hereafter in insurrection or rebellion against

he United States, and to such as shall be duly convicted of reason, felony or other infamous crime.

In urging his substitute for the Boutwell amendment, Shellabarger, of Ohio, warned his fellow members against any ict which might legalize the disfranchisement of the vast body of negroes in the South. He said the Boutwell amendment would enable the rebel and master race at the South to disfranchise most of the colored people by excluding a man from the ballot who could not read: "For centuries," he said, "the colored race had been shut out of the light and because for centuries they had been stolen property; they were poor; therefore an educational or property qualification would practically disfranchise them." But this he said was not the only effect in the amendment proposed by Boutwell. It added to the mischief it sought to remedy, for by prohibiting a State from exercising the power of disfranchisement only on account of race, color or previous condition of slavery, it plainly led to the inference that the State was authorized to disfranchise upon any other grounds than those three, and upon the well-known and universally recognized principle of law, expressio unius, exclusio alterius. Congress would then make the constitution worse and hand the power of disfranchisement over to the States. In Thorps' Constitutional History, it was said the debate had developed two facts, a general agreement that it was desirable to submit a suffrage amendment and a great difference of opinion as to its provisions. The Southern and border States generally opposed the idea of permanent disfranchisement of those who had participated in rebellion. If the amendment substantially secured the principle that the State did not absolutely control the question of suffrage, and, further, that by the fundamental law the right could not be denied the negro, it was enough. To load down the amendment with details would insure its rejection. Massachusetts at the time required an educational and Rhode Island a property qualification of the voters. If the amendment forbade a State imposing such qualifications it might confidently be expected that both these New England States would refuse to ratify. The people of New York recently by a large vote of over thirty thousand had refused to abolish discriminating property qualification for negro voters. The House therefore passed the Boutwell resolution by a vote of one hundred and fifty to forty-two.

The Senate took up the House resolution on the third of February, 1869. Acting under the instruction of the Judiciary Committee, Senator Stewart moved to amend the resolution by striking out the whole of the first section and subtsituting the provision that the right of citizens of the United States to

vote and hold office shall not be denied or abridged by the United States, or any other State on account of race, color or previous condition of servitude.

Howard of Michigan, who was the author of the 14th Amendment, thought the language too vague and would have it express plainly that citizens of the United States of African descent should have the same right to vote and hold office as other citizens. Senator Morton, says Thorp in his constitutional history of the United States, voiced the fears of many of his party when he said that the Stewart amendment could be practically disobeyed without establishing either a property qualification or an educational test. Like the makers of the constitution he was averse to putting the word color into it or any reference to slavery. In abolishing the institution it had been necessary to be explicit and the word slavery could not be avoided in the 13th Amendment. He asked, "Might not a State debar the negro from voting under the claim that he was deficient in natural intelligence, or incapable of improvement, or incompetent to take part in the administration of government. The whole provision of the proposed amendment might thus be overruled. For these reasons he urged some affirmative definition of suffrage somewhat as Howard of Michigan had suggested. Senator Williams of Oregon urged that it was better to assert the power of Congress to regulate the right to vote and thus keep the whole matter within the control of the national government.

The debates in Congress, however, show that the difficulties in the way of the amendment whether expressed in the language of the House resolution or Senate committee were serious and of long standing. It was urged that it was a radical departure from the theories and practice of the government since its foundation, that save in for a brief period in Tennessee and a longer time in North Carolina the negro even when free had never been a voter in a single Southern State and that he had been excluded from the franchise in all the Northern States except four, that Connecticut had by her constitution excluded him from voting and holding office, that Northern States like Michigan and New York had only recently voted on the question of negro suffrage and had refused to grant the negro the right of suffrage, that the great States north of the Ohio which had for years been unfriendly to the free negro, some of them even prohibiting their residence in their States, would not bury their hostility and admit him to suffrage. It was further urged in the debate that the proposition of Senator Williams would practically change the basis of suffrage and would take from the States who had heretofore exercised it, the control of suffrage and place it completely under the

control of Congress, that the country was not prepared to sanction so radical a departure from the practice of the government or to transfer to Congress the control of suffrage. The entire Democratic party resisted so radical a departure and change and a majority of the Republican leaders were forced to agree to the views of the Democratic minority. In this work on constitutional history Thorp says,

"The Fortieth Congress has been blamed by those who call themselves Nationalists, because it neglected to perfect the work of reconstruction and putting the regulation of the elective franchise and of the right to hold office wholly under the control of the national government. He says the Fortieth Congress contained an unusual number of men possessing wide political knowledge and experience in public affairs; it
36 was not under the control of the radicals, though these were present in respectable numbers and frequently gave utterance to their political faith with such eloquence and power that their extreme views have become a great tradition in our history. The controlling minds of that Congress well knew the difficulty and danger of attempting so radical a change in our political institutions as to give the national government the power to control the elective franchise and the right to hold office."

"The long established doctrine of residuary State sovereignty checked every effort of the Republicans to effect the innovation. For nearly a hundred years that doctrine had gathered strength and at last had permeated every State Constitution, and every election law in the country. It was too firmly embedded in the political mind and in the political traditions of the people to be obliterated by so sudden a procedure as an act of Congress in the form of a joint resolution which to become a part of the constitution must be ratified by three-fourths of the States. The Civil War, though profoundly affecting the thought of the country had not prepared the public mind to accept so radical an innovation. The policy of the opposition was therefore clear, it could not defeat a suffrage amendment in some form but it might largely determine the form. Fully conscious of the practical value of the doctrine of residuary sovereignty in the States, it could compel the Republicans to so word their amendment as to recognize that sovereignty and thus practically continue to the States the right to regulate the elective franchise."

The history of this amendment shows that five substitutes for the Stewart resolution where offered and defeated. Finally Wilson of Massachusetts offered as a substitute that no discrimination should be made in any State among the citizens of the United States in the exercise of the elective franchise or in the exercise of the right to hold office in any State on

account of race, color, nativity, property, education or religious creed, which substitute was opposed by Sherman of Ohio, Conkling of New York, but by a small majority the Senate agreed to the Wilson amendment. When the resolution was sent back to the House a committee of conference was appointed, and the committee was unable to agree and it seemed as if the 15th Amendment was doomed to defeat. It is useless to consider the history of the debate further. The amendment was finally passed in its present form, but only after repeated efforts had been made to so amend it as to make every citizen of a State 21 years old or upwards a voter, not to be disfranchised except for crime.

A review of these debates disclose the fact that there is a very general popular misconception of the purposes and effects of the two amendments to the constitution. Hence when the Committee on Suffrage was organized the first step taken was to appoint a special committee to ascertain and report what powers the State of Alabama had under the Fourteenth and Fifteenth amendments to regulate and control its suffrage. Although among the members of the committee were some of the most distinguished lawyers in the State, each member of the committee realizing the responsibility and gravity of the task to which we had been assigned, examined for himself the law and decisions on the subject. A careful examination of the decisions of the Supreme Court established beyond controversy the following propositions:

First. The right of suffrage was not necessarily one of the privileges and immunities of citizenship before the adoption of the Fourteenth Amendment.

Second. That amendment does not add to these privileges and immunities but simply furnishes an additional guarantee for such as the citizen already had.

Third. That at the time of the adoption of that amendment suffrage was not coextensive with the citizenship of the State, nor was it at the time of the adoption of the constitution, and that neither the constitution nor the Fourteenth Amendment made all citizens voters.

Fourth. The inhibition in the Fourteenth Amendment that no State shall deprive any person within its jurisdiction of the equal protection of the laws was designed to prevent any person or class of persons from being singled out as a special subject for discriminating and hostile legislation.

Fifth. The Fifteenth Amendment to the constitution does not confer the right of suffrage, the right to vote in the States comes from the States, and has not been granted by the United States. The Fifteenth Amendment simply invests, citizens of the United States with the right of exemption from discrimination in the exercise of the elective franchise on account of

their race, color or previous condition of servitude and empowers Congress to enforce that right by appropriate legislation.

Sixth. The main purpose of the Fourteenth Amendment as has often been declared, was to establish the citizenship of free negroes, which had been denied in the Dred Scott case and to make all blacks born or naturalized in the United States citizens of the United States.

Seventh. Any action of a State not directed by way of discrimination against the negroes as a class or on account of their race does not come within the Fourteenth Amendment.

Eighth. The constitution in its present form so far as civil and political rights are concerned, forbids discrimination by the general gomernment or the States against any citizen because of his race.

Mr. PRESIDENT: This review of the debates in Congress and the construction by the highest courts in the land of the objects, purposes and effects of the two amendments to the constitution show beyond controversy that they do not oppose, as many seem to believe, an insuperable barrier to the disfranchisement of the negro. That there were many supporters of the Fifteenth Amendment, when it was being framed, who desired to so amend it as to place wholly under the control of the Federal Government all future elections in the States, and to make it impossible for any State to regulate its suffrage, we concede, but the history of that amendment also shows as we have seen that many of the States of the North whose Senators and Representatives participated in the preparation of that amendment to the constitution, contained considerable bodies of negroes little better fitted for the duties of electors than the lately manumitted slaves of the South, and it is only fair to assume that they were unwilling to prescribe a rule of such tyranny and disaster, and that its adoption by the requisite number of States would have been rendered doubtful if such a purpose had found positive and arbitrary expression therein.

Mr. President, as we have seen the first section of the Fourteenth Amendment, made all negroes citizens of the United States and of the States of their residence. The amendment which followed prohibited the denial or abridgment of that vote for three certain specified reasons, or either of them, and for those only. For any other reason their right to vote may be denied or abridged. You cannot say that because the effect of our plan will be to restrict the right of the negro to vote that it necessarily violates the terms or spirit of that amendment. For with the same force of reasoning you could say that an educational or property qualification imposed on all alike would result in denying to the great mass of negroes

the right to vote, and was therefore unconstitutional. If the effect or result of a law restricting suffrage was to determine its construction it would have been held that the effect of the provisions found in the Mississippi Constitution requiring a voter to be able to understand or give an intelligent explanation of the constitution militated against this article of the Federal Constitution. It would have been held that the laws of Massachusetts which imposed an educational qualification, of Rhode Island, which demanded a property qualification, were in conflict with the Fifteenth Amendment. In the one case it could be truthfully said that the whole or greater part of the negro race in those States were disfranchised, because they on account of their poverty or ignorance were unable to vote. Yet, in the debates in Congress and in every judical construction of the two amendments, the presence and continual existence of these and other restrictions on suffrage in the laws and constitutions of other American States show that they are not antagonistic to the two amendments, that the question of their violation of the amendments is not determinable and has not been determined in a single instance by the effect or result of the restrictions imposed upon the voting of the negro race.

I therefore assert that the State can impose any restriction it may see fit on suffrage which is not directed in hostility to the negro race, not imposed on account of his race, color or previous condition or servitude and will not when tested by enlightened judicial construction be disturbed. If we abridge or deny the negro the right to vote, we take this action not in hostility to him as a race, not on account of his color or previous condition of servitude, but because his exercise of suffrage without restriction make it unsafe to the life of the State and detrimental to all the interests of the people among whom he resides. We can deny the right of suffrage to the natives of other countries, or extend the age of majority from 21 to 30 years, for it has been decided that the Fifteenth Amendment was intended to protect the negro race alone. No, Mr. President, we are not in this hour of our State's deadly peril seeking to wreak any vengeance upon the negro, or venting any ill will on account of his race or color; but we are restricting our suffrage for the sake of the life of our Government, for its honest and faithful administration, for the sake of our civilization, for public morals, for personal integrity, for the emancipation of all that is good and pure among us from that bondage of the soul and of thought which has been forced to participate in wrong doing from fear of a greater evil. We perform this duty for virtue, for decency, for religion, for liberty, for life itself.

The enfranchisement of the negro race furnished one of the

darkest chapters in the history of this republic. When Lee laid down his sword at Appomattox the South recognized that the abolition of slavery was one of the inevitable results of its failure to establish a separate and independent government. It submitted loyally to this gigantic confiscation of property, which it had acquired under the sacred guarantee of the Federal compact. Following swiftly upon the abolition of slavery, came the enfranchisement of the negro race. The shackels were scarcely stricken from his limbs before the ballot was placed in his hands? Not only was he clothed with the right of suffrage, but he was elevated by military force to the control of the States of the South, a condition of affairs more humiliating than that to which any free and enlightened people had ever been subjected.

Then ensued a carnival of crime, of robbery and jobbery without parallel in history. A horde of most venal and corrupt adventurers gathered from every haunt of vice and crime, swarmed into the South, and by appeals to the passions, the credulity, the prejudices and the ignorance of the blacks, organized them into a compact political party, and by aid of Federal power, secured control of every department of the State governments in all of the States of the South.

The leadership, of course, fell to the white adventurers, whose scanty stock of portable property won for them the name of carpet-baggers. They organized the negroes, tampered with the electoral returns, stuffed the ballot boxes, secured all the lucrative offices, increased salaries, devised the various methods by which taxation was increased and imposed on the impoverished States of the South a burden of debt which destroyed public credit and bankrupted the public treasuries. In speaking of this period, Mr. Brice, in his celebrated work, "The American Commonwealth," says:

"But as the voting power lay with those who were wholly unfit for citizenship, and had no interest as taxpayers in good government, as the legislatures were reckless and corrupt, the judges for the most part subservient, the Federal military officers bound to support what purported to be the constitutional authorities of the State, Congress distant and little inclined to listen to complaints of those whom it had mistrusted as rebels, greed was unchecked and roguery unbanished."

But, not satisfied with clothing the black man with every political right, with elevating him to the control of his former masters, the radical party in the North undertook to regulate the social relations of the races, with the avowed purpose of forcing an assimilation of the negro, and destroying Southern civilization.

Impoverished though she was, crushed by defeat, exhausted by the protracted struggle in which she had lost the flower of

her manhood, rallying her sons from the ashes of her homes and the graves of her dead she closed her decimated ranks, determined at any cost to preserve her social purity and maintain her civilization. She braved Federal bayonets and Federal power and her brave sons stood with unyielding ranks around the inner temple of her social system. In every village and town of the State was heard the voices of her sons, rallying her forces to the conflict, and under the leadership of Houston the plunderers were driven from their power and honest government restored. The gallant Randall gathered together that small Spartan band of Democrats at the national capital, and by his skill, courage and superb leadership arrested and defeated this last and most humiliating measure of hate to the South. The grant of unrestricted suffrage to the
37 negroes of the South was the colossal crime of the nineteenth century. No people could be imagined more hopelessly unfit for this important power. It was thrust on the negro in hot and vengeful haste, without previous preparation—not to elevate or protect him, but to humiliate and degrade us. It created an epoch of crime, corruption and misrule never before known in any civilized land. It filled our halls of legislation with men to whom honesty was an unknown virtue. It elevated to the bench men without legal training, to whom Blackstone was a myth and Kent a meaningless name. It filled the land with crime, intensified racial prejudice, demoralized our labor and retarded our growth and prosperity. It hindered immigration, rendered life and property insecure and allayed the investment of capital and the development of our marvelous resources. It has prevented any division of our people on economic or political questions, repressed freedom of thought and debauched our suffrage. To prevent a recurrence of the frightful misgovernment which followed reconstruction, it has forced our people to adopt methods to retain honest government which were repugnant to their consciences and which have debased and lowered our moral tone. No king, however despotic, would have subjected his subjects to the peril, the ignominy, the moral and financial ruin which has walked in the train of this unwise experiment. As the editor of The Chicago Chronicle recently said: "The history of the world may be searched in vain for a parallel to the spirit of savagery which inflicted upon a defeated and impoverished people the unspeakably barbarous rule of a servile race just liberated from bondage." As a distinguished English statesman recently wrote, "To nearly all Europeans, such a step as the grant of the suffrage to the negroes en bloc, seemed then, and still seems monstrous."

After over a quarter of a century's experience, we know that it is as much a failure today as it was the hour it was first

inaugurated. Hence I but voice the sentiment, not only of the white people of Alabama, but of the intelligent, unbiased judgment of the North and of the civilized world when I denounce the Fifteenth Amendment as not simply a political blunder, but a crime—a crime against the white people of the South—a crime against the black people of the South—a crime against local self-government, and the sovereign rights of the States. For I am sure the time has come when we can challenge the criticism and the favorable verdict of the civilized world to whom we can show and who have already seen and known that we have tried in humiliation and under protest, but still in patience, the experiment of unlimited suffrage, which heedlessness, animosity and hate put upon us. That we have tasted its bitterness, drained the cup of hatred and empericism to its dregs, inhaled its poison until the State reels from its effects, and that it has been demonstrated after a third of a century that this investiture of the unqualified element of our population with the sovereign robe of suffrage was a costly and a ghastly failure—a crime against us as well as the negro.

In the dark days of reconstruction Thomas A. Hendricks declared in the Congress of the United States that the Fifteenth Amendment was a violation of the original compact between the States and changed the nature of our Government. Its adoption was secured by force and fraud and in the States of the South its ratification was compelled by military authority. The pretext that it was necessary to secure the results of the war is not sustained by history, for Congress had solemnly declared that the war for the Union was not waged to free the slaves, and Abraham Lincoln had said, "I did not at any time say that I was in favor of negro suffrage. I declared against it. I am not in favor of negro citizenship." This opinion it is said, he never changed. The impartial student of history knows that this amendment would never have been proposed had it not been confidently believed that its adoption would perpetuate the rule of the Republican party. Can anyone at this day, who has studied the history of that period stand in this presence and contend that this amendment would have been adopted had it been then supposed that it would result in the South casting a solid Democratic vote.

Mr. President, what is the situation that confronts us in Alabama? We have here two distinct races, one two thousand years in advance of the other, representing the highest type of modern civilization, the other a race whose ancestors were a hundred years ago naked savages, living on the banks of the Congo or Niger.

The records of history are largely narratives of man's advancement from barbarism to civilization. The great dominant white races of the earth have been thousands of years in

reaching their present state of development. The advance has been by slow processes, long and laborious struggles, and not by sudden leaps and bounds. Every step taken seems necessary in the march to the present development. For two thousand years while the white races have been progressing, the negro in Africa remained stationary, as uncivilized today as he was before the birth of Christ. In the case of the great Asiatic and European races we find that the early stages of development are lost in the mists of antiquity. From the days of the Roman Empire to the present hour, a perusal of history shows that advancement and progress has been slow, gradual, laborious but steady, development depending largely on the progress of the arts, sciences and good government. With the progress of learning and material prosperity there has come a growth so to speak of the human mind, until today the white races have reached their highest type of culture and development. Yet a study of the African races back to the days of the Pharoahs of Egypt show no such progress. So the singular condition exists in the South of the most primitive, rudimentary race living side by side with the most cultured and highly developed. It has been truly said that not greater is the interval which separates the chipped flints of the stone age and the Maxim gun of today. A hundred years ago a body of savages were torn violently from their homes in Africa, sold to masters representing the highest type of civilization, put to work in the plantations, taught the arts of agriculture and mechanics, deprived of law by all participation in government, forbidden to read or write, and civilized as far as possible by contact with a highly developed and civilized race. Suddenly, without previous preparation, they are enfranchised, made citizens of the most advanced government of the earth, forced from their simple primitive life into all the turmoil of politics, organized into a compact political party, clothed with office, and at the point of the bayonet set in control of the government administered formerly by their masters. The proudest, bravest and most cultured portion of the Anglo-Saxon race in America compelled by military power to submit to the domination of their former slaves. As soon, however, as the Federal bayonets were removed all this structure of negro domination which malignity and savage hate had framed after so much deliberation, by so many gross violations of the cardinal principles of our Government toppled to the ground. The whites, though numerically inferior in many States, found the means by the grace of God to restore white supremacy and good government. To establish this, however, the whites in the South and in Alabama were forced to stand in solid phalanx to the detriment of their political life, forgetting all differences of opinion on political and governmental

questions, casting their ballots solidly for the Democratic party. Division amongst them meant ruin. If they divided into factions here was this great mass of illiterate, purchasable votes, easily influenced by the appeal of the unscrupulous to passion or prejudice, a constant menace to our peace and security, and standing between, holding the balance of power.

Mr. President, the white race must dominate because it is the superior race, and in that domination the negro will find the safest pledge and guarantee of just and impartial administration. We remember with gratitude that during the dark days of the war, when our fathers and brothers were at the front fighting the battles of the Confederacy, the negro was left at home, and in many cases was the sole protector of the helpless and defenseless women and children of the South. We recall with gratitude the fact that in not a single instance did he betray his trust. He worked in the cotton and corn field to feed the armies that were fighting to rivet the chains of slavery on his limbs. No higher tribute could be paid to the institution of slavery. While all this is true, while we propose to accord to the negro all his rights in the courts, to share with him more than his just proportion of the educational fund and to accord him that justice which the strong always owe to the weak, we can never consent to share with him the responsibilities of government. Mr. President, this is not a sectional issue, the race problem is no longer confined to the States of the South. The acquisition of the Sandwich Islands, the Philippines, Porto Rico and the control of Cuba has forced the race problem to the attention of the whole country and in the wise solution of this question we have the sympathy instead of the hostility of the North. Mr. President, wherever the white man has come in contact with an inferior race, whether in Massachusetts, in Kansas, in California or in Alabama, whether with the Mongolian, the Indian or the negro race, race instinct will assert itself and the white will dominate and control. It has been wisely said that this race instinct is of divine ordination. It should not be decried, derided, or denied, because it preserves the integrity and purity of each race. The races of men are the creations of God, the markers of his will. He who attempts to overcome this race instinct is defying a power which is higher and wiser than that of man, and which will in the future as it has in the past, preserve the social purity and integrity of each race, preventing that assimilation and debasement, the very contemplation of which fills our minds with horror and repugnance.

Mr. President, the whole force of the opposition to the suffrage plan seems to be directed against Section 4. It is claimed that it violates the Federal Constitution by indirectly denying the suffrage to the negro. It is not true that this sec-

tion denies the right of suffrage to the negro for it simply allows the lawful descendants of soldiers to vote. The son of a negro soldier is embraced in this class to the same extent as the son of the white soldier. It cannot be claimed, however, that because there may be more descendants of white than colored soldiers that this renders the provision unconstitutional. The same argument could be made against the soldier clause itself. It could be said with the same force of argument that because an educational and property qualification or even a poll tax affected more negroes than whites it was unconstitutional. I am wholly unable to comprehend the consistency or logic of the argument which assails the descendant clause as unconstitutional and admits the legality of the section which excludes all soldiers from the operation of the suffrage qualifications. Neither section singles out the negro as a subject of hostile legislation. It is not class legislation, for the class legislation denounced by the courts is legislation discriminating against some and favoring others. As Judge Miller declared in the Slaughter House cases the action of the State must be directed by way of discrimination against the negroes as a class, on account of their race in order to be violative of the Federal Constitution. It may be conceded that the clause erects an arbitrary standard of qualification, but the State in the exercise of its sovereign power to regulate suffrage can act arbitrarily provided it does not deny the negro the ballot on account of one of the three grounds mentioned in the Fifteenth Amendment. As Senator Morton declared the State might deny the right on the ground that the negro was incompetent to exercise the suffrage intelligently. It is claimed that the test required is not a rule or condition to which all citizens similarly situated may conform and which is required under the decisions of the Supreme Court. I challenge those advocating the minority report to cite a single decision of the Supreme Court which sustains their contention. If the argument is sound the soldier clause is equally objectionable for a man who was not a soldier in any of the wars mentioned could by no exertion on his part become a soldier now. It is claimed it establishes a permanent, hereditary governing class, which is undemocratic and un-American. The argument is utterly misleading. The descendants of soldiers admitted to the suffrage by this clause are already voters. The son of the soldier does not inherit from his father the right to vote. He simply retains what he already had under the system of universal manhood suffrage which has heretofore prevailed in this State. It is claimed "we had better pursue the course which our fathers traveled and use the helm with which they steered." Mr. President, the conditions which surround

us are not the conditions which confronted our fathers. Extraordinary conditions require extraordinary remedies. I venture the prediction that if they had been similarly situated, if their slaves had been clothed with suffrage and good government, honest elections, and the preservation of the splendid civilization which they had created had been in jeopardy they would have followed the path which we have trod and would have adopted the same methods to secure their safety. The gentlemen of the minority have refused to boldly face the perplexing problem we are forced to solve. I do not question their sincerity but the arguments which they have advanced show that they have not risen to the height of this great question. Their reasoning smacks of special pleading, of carping criticism, and of fault-finding without offering any remedy. Mr. President, no one denies that the State has a right in the exercise of her sovereign power to regulate suffrage to provide that all soldiers shall be allowed to vote or be exempted from the operation of any restrictions imposed on others.

It is claimed that this is justified on the ground that
38 it is solely a recognition of valiant services rendered. Why then I ask, if this be true, can the State not go further and say that in recognition of your valor in war, your willingness to sacrifice life for the common welfare we will not only exempt you but those nearest, dearest and closest, your lineal descendants, from the operation of any provision restricting suffrage. So long as the State does not violate the provisions of the amendments to the constitution there is no limit on its power to control the suffrage of its citizens. Delegates of the convention, our plan may be imperfect but I ask its critics, those who have been so persistent in denouncing it as unwise and dangerous what better plan have you to offer. We cannot afford to leave the ballot in the hands of enough negroes to form a respectable faction, for if we do, whenever the whites divide they hold the balance of power, and we have failed to accomplish our mission. Have we grown so careless of the past that we can undergo that danger? Cannot we, brothers, kinsmen, inheritors of the glorious past, united as we are by every tie of affection and interest, joint sharers of the blessings of free government transmitted by our fathers, can we not forego our petty bickerings and unite to accomplish this glorious mission? Let us be equal to this great occasion, this golden opportunity in the life of our State and put into our constitution an article on suffrage that will guarantee to future generations the blessings of Anglo-Saxon civilization and liberty in this State. We cannot afford to disfranchise the ignorant and illiterate white. It was the illiterate and uneducated white man that fought the

battle of the Confederacy. They and their descendants were educated not in books but in the traditions and principles of free government. The race to whom they belong have been educated for centuries in the practice, participation and conservatism of free institutions. The men who won Magna Charta from King John were uneducated and illiterate, and yet, in the language of another, they were the men who, from merely hereditary aptitude, acquired for generations in the administration of free institutions were enabled to lay their foundations deep and secure in England. The negro on the other hand has no traditions of liberty, no pride of ancestry, no environments which fit him to intelligently discharge the great duties of citizenship. I for one can never consent to cast my vote to deprive a single man who wore the gray or his descendant, whether he be learned or illiterate, the right of suffrage. Mr. President, the committee has been fortunate in having as its chairman not only a distinguished lawyer, learned in all the learning of the law, patient and painstaking, but a patriot who has lived in that section of the State where the evils of an unrestricted suffrage have been most severely felt and who has earnestly labored to present a plan which will carry out every pledge and yet accomplish the mission for which the people have delegated us to assemble in convention. Mr. President, I feel sure that this convention will give the State such reform in suffrage, such purity in the ballot as the people have demanded and that this convention will prove equal to its great task—will solve this problem with all the wisdom possible to the fairest mind—solve it permanently—without makeshifts or subterfuges, so as to make permanent good government in Alabama.

Mr. OATES: In the time limit fixed, I shall endeavor to say nothing except that which may be considered to some profit, and is absolutely pertinent to the question in hand.

Now, sir, it has frequently been asserted that the primary object in calling this constitutional convention was to completely eliminate the negro from politics, or disfranchise the negro. This, gentlemen, is stating the question too narrowly. The primary and broader object was to seek to reclaim our beloved State from that evil into which it had fallen, of dishonest elections. How did we get there, and who is responsible therefor?

I am by nature a conservative. I am entitled to no credit for it, because I was born that way. I am not radical in anything pertaining to public affairs; never was, and as long as I retain my memory and reasoning powers, never will be, and I never will, if I know it, be a party to an injustice to anyone—it matters not what may be called the exigency.

Now, sir, we will take the negro. We find him in his native

Africa, a savage. He is not responsible for his being in America and in a state of slavery. He is not responsible for his emancipation. He is not responsible for his enfranchisement. He had no agency in any of it, and there is not a delegate on this floor who will rise in his place and say that he had, or that he did. Then, how was he enfranchised? You know by whom. By the policy of those who fought us in war and conquered us, the Federal adminstration. They saw proper, as a part of their policy, towards this conquered people, and this large population who had been emancipated from slavery, by a war that had been urged upon us. As a part of their policy they passed the fourteenth and fifteenth articles of the amendments. The negro, therefore, is not responsible for it. It was the work of the white man. The negro, when informed that he had been emancipated, was grateful to those whom he understood had done that work, and, gentlemen, whether it was beneficial to him or the reverse, this was but the bubbling up of nature. Even the scorned earthworm that you trample upon will turn and sting you. It is only nature. Everything —the birds of the air, the animals and human beings, desire to be free, although in the case of African slavery, it had benefited the negroes because it lifted them higher in the sunlight of civilization than anything before. It was a blessing to them. But it was only natural that they should aspire to freedom and welcome it, and when it came, to be grateful to those whom they understood brought it. In a like spirit of gratitude, they were grateful to the people whom they understood had enfranchised them. They were much misled and misinformed, and I think with all their misinformation that they did remarkably well.

Now, when the distinguished delegate, the chairman of this committee, was on yesterday addressing this convention, pointing out the abuses of the elective franchise at the hands of these people, he seemed to charge it altogether to them. I differ with him in reference to that part of our history by charging it to the carpet-baggers and scalawags with white skins who led it on. I want to place the responsibility where it belongs.

Mr. COLEMAN (Greene): Did the scalawags lead away the white people that way?

Mr. OATES: They led the negroes and the negroes have always been led by the white people. One statement of the chairman (Mr. Coleman) was that a negro boy 16 years old had voted sixteen times. Gentlemen, I happen to know about that, and the chairman probably got it not directly, but indirectly, from me.

My law partner, with the act of 1868 in his hands, in which the carpetbag legislature had made it an indictable offense

to challenge anybody who offered to vote, with that statute in his hands, carried his office boy, 16 years old, to the voting place in my town of Abbeville, and voted him one time for every year he was old. He did it to show the infamy of carpet-bag legislation, and not that of negro enfranchisement. Let me say, furthermore, I suffered as much from reconstruction and took as great a part in it personally as anybody else, but that is not material to the question. I am making no complaint now on that, though I had a right to complain.

I will tell you what I conceive to be true statesmanship. It is to act with conditions as we find them. We may be indignant about some of our past history. We may feel that what transpired twenty-five or thirty years ago is irritating, and as I have seen black heads banked around the polling box, and I could not get there to vote without swimming through them about 100 yards deep, I felt the sting of it. When a company of Federal troops was sent to my town, I was arrested and put under bond of $10,000 that I would not hurt any carpet-bagger, because I and one or two more one-armed men like myself got after one and run him out of the county, and I haven't any respect for the Kuklux of that day. They were inefficient, or the negroes would never have been led into the errors they were.

The negroes were enfranchised, and I think wrongfully. I opposed it. It is the only instance in history where the Congress of the United States violated its fundamental law, and undertook to fix suffrage for the States. They never did it before, and have never done it since. The negroes were enfranchised and they went right on and crowded to the polls, and they were in the hands of carpet-baggers and scalawags, and being led by them, brought governmental evils almost untold and there were but two ways to correct it. One of these was to take shot-guns and go to the polls and disperse them. We either had to leave our homes or stop that kind of thing, and if we took guns to the polls somebody would have gotten hurt.

The other way was to cheat them. I was an advocate of the latter because it didn't take life. Now, I never changed votes with my one hand, but I upheld it and counseled it in those who did. I am just as guilty as those who did. I am just about like a parson who lived in my county before any railroads had come to that country, and they hauled cotton in wagons here to Montgomery and these black prairie roads were almost impassable. The old parson had a fine six-mule team loaded with cotton one day, and with his son John to drive, he started to Montgomery. The roads were awful, and the wagon sunk into the mud and had to be pried out time and again. John was a little wicked and disposed to swear. The old man protested, "Johnny, my son, don't curse that way,

that's wicked." After awhile the wagon got stuck and he tried to pry it out, and tried to get the mules to pull it out, but it was all without effect, and John says, "Father, if you will just step aside and let me cuss these mules a little while, I believe we can get this wagon out." The old man seeing that everything else had been tried in vain, got out behind a tree and says, "Now, Johnny, you may curse them just a little." Well, Johnny mounted the saddle mule and popped his whip and hollered, "Hell and twelve, come out of the mire." The mules got down steadily to it. The old man saw the wagon moving, which so delighted him he cried out, "Thirteen and the devil, cuss them a little more, Johnny."

I was no better than Parson Reaves. I told them to go it, boys, count them out. We had to do it. Unfortunately, I say it was a necessity. We could not help ourselves. We had to do it or do worse. But we have gone on from bad to worse until it has become a great evil. It has gone to the point where the negro found out some time ago that it was no use for him to vote. White men have gotten to cheating each other until we don't have any honest elections. That is the trouble we have to grapple with. Now, it is said that the right way to grapple with it is to disfranchise the negro, and according to our platform no white man shall be disfranchised. If no white man is to be disfranchised, then there is nobody to disfranchise but the negro. As we have taken an oath here to support the Constitution of the United States, and if there is nobody to be disfranchised but negroes, and we disfranchise them, how does that fit the Constitution that we have sworn to support. Now the platform has a pledge in it. I was nominated under it. I wasn't there when the platform was adopted, nor was I present at Birmingham at the meeting when the delegates ratified it, and said they would stand to it. I said all the time on the stump that I would vote for and support a reference of the constitution back to the people. I was opposed to increasing the rate of taxation; but I was in the field and wanted to come to the convention, not for any honors it would bring me personally, but to pay a debt of gratitude I owed to the people of Alabama for having honored me. I was willing to aid them by lending my feeble efforts to help them out of the trouble into which they had fallen in consequence of this evil of universal manhood suffrage, which had been thrust upon us without our consent and without our agency. And I said to them I am for making a constitution which will elevate the suffrage, and I am for eliminating from the right to vote all those who are unfit and unqualified, and if the rule strikes a white man as well as a negro, let him go. There are some white men who have no

more right and no more business to vote than a negro and not as much as some of them.

Now, it is true statesmanship not to legislate, especially in making a fundamental law, on account of the smarts and wrongs done us in our past history. That is not it. It is to deal with present conditions, whether they come by our permission or were thrust upon us. That don't make any difference. You are considering today a constitution for the people hereafter, people who have to succeed us after my hairs have gone down to the grave and after you and I sleep in Mother Earth. You —every man of you, are doing a work that, it is to be hoped, will be beneficial to those who succeed you. Shall we go back to the irritations of the past to guide us, or shall we look to our present surroundings and cast aside the things of the past, which are not alive today? I have said about all I intended along this line.

Now, as to the question whether this grandfather clause, so-called, is constitutional or not. Gentlemen, I do not claim any more for myself than I concede to any other man in this convention or out of it. I am keeper of my own conscience. You are keepers of yours. I never yet blamed a man who honestly differed with me in opinion. Thank God, I am constituted on broader lines than that and can concede to my fellow man all I claim for myself. I believe that this clause which the minority report against has two objections to it. One is, I believe, it is unconstitutional. I may be mistaken, but my belief is more that way than it is in favor of its constitutionality.

39 As to the one that precedes it about the soldiers, gentlemen, I am doubtful about that, but the soldier who has served his country is always pretty near the American heart, and if there is a doubt in that case, it can be waived in favor of them. I am disposed to waive it. I say this just here before entering upon the argument.

There were two points, it seems, that have been in the minds of the committee. One was not to disfranchise any white man, in obedience to the platform. The other not to violate the Constitution of the United States. They sail between Scylla and Charibais. If ever there was an instrument framed more artfully to sail between those points, I have never seen it. Two ex-Judges of the Supreme Court and able lawyers, astute gentlemen, closely giving their attention to this work, and they have produced a masterpiece of its kind, and I am glad that I am able to concur with it in the main, but I would be untrue to myself, sir, if there is any part of it which I cannot endorse, if I sit down here like a mummy and a whipped cur and say nothing. From my boyhood, I have acted upon the advice of

that greatest of poets who makes the father say to the son on leaving his household, and after giving much advice, this above all:

"To thine own self be true, and it must follow
As the night the day, thou canst not then be false to any man."

Now these decisions of the Supreme Court of the United States none of them have settled this question—none. I want to give a very short space of time to their consideration, and in order that I may be brief, I have not brought the volumes here to quote from, but have brief extracts. But in the case of Yarbrough, 110 U. S., it is simply declared that the Fifteenth Amendment was designated primarily to prevent discrimination against colored men where the right to vote may be granted to others. Now, there is no difference among the committee on that. Then, in the Cruikshank case—why, there is nothing in that except this: They say, "Inasmuch, therefore, as it does not appear in the counts of the indictment that the intent of the defendants was to prevent these parties from exercising the right to vote on account of race or color, it does not appear that it was their intent to interfere with any right granted or secured by the Constitution or laws of the United States. We may suspect that race was the cause of the hostility but it is not so averred." That decision went off simply on a question of pleading—an insufficient averment in the indictment. The courts might suspect, but they could not decide when it was not in the case.

Now, in the Williams case, which is the latest, 170 U. S., it said: "The Constitution and laws of Mississippi are not limited by their language or effects to one race. They reach the weak and vicious white man as well as the weak and vicious black man, and whatever is sinister in their intention, if anything, can be prevented by both races by the exercise of that duty, which voluntarily pays taxes and refrains from crime. This is the premise from which Judge McKenna, delivering the opinion of the court, draws the conclusion as to the legality of the Mississippi Constitution. He said: "The constitution and statutes of the State do not on their face discriminate between the races, and it has not been shown that their actual administration was evil, only that evil was possible under them, and hence the Supreme Court of the United States have not disturbed the judgment of the court below."

That was—I will state it for the menefit of some gentlemen who may be present who have not heard it—the case of Williams who had been convicted of murder, and an appeal taken to the Supreme Court of Mississippi. It was over the clause in the constitution which provided that only qualified electors were eligible as jurors. That was the point. Now, I say that

the question has never been decided. It is only a matter of inference from the cases which have been adjudged as to what the Supreme Court of the United States will decide. I lay down this proposition by which I am governed, and I believe that it is sound law:

To include a class as voters on grounds that are repugnant to the equality of rights and privileges that are the common heritage of the people, violates the spirit of the constitution, if not its letter. Now, would it be constitutional? Suppose that this convention was to declare, in favor of the negro race as voters, practically excluding the whites. Would that be sustainable? I think not. Such discriminations are not allowable by the Fifteenth Amendment. I have not the time to express my opinion on the clause admitting soldiers to the franchise, which I hope to do some time hereafter. But as to the clause admitting descendants of soldiers—going back to the Revolutionary war and coming on down through all the wars to the Spanish war—the descendants of those who were soldiers are to be admitted to the franchise, if not disfranchised by other parts of the constitution, and are residents of the State as prescribed. Gentlemen, there are two points of objection. The first is, I believe that is unconstitutional. That is, I am more inclined to think that—more inclined to that view than I am to think that it is sustainable before the court. The object of it is what? Among ourselves, why let down the bars not only for the soldiers, but the descendants of the soldiers? What is it for? Is it not to let in nearly all white men, and isn't it to keep out the negroes? Isn't it in fact a discrimination? If it be a discrimination, then it is violative of that clause of the constitution.

While I would like never to have had the Fifteenth Article of Amendment, when you swear me to keep it, gentlemen, I never have when I ever have felt my honor grip. I've let that be my border. When I feel that this clause is contrary to the oath I have taken, I cannot support it. Even if it is a matter of doubt, I would rather not do it. It is not consistent. Such action would not be consistent with my oath to support the Constitution of the United States.

We pass to another point. I insist that it is not at all necessary. The way it is now the gap is mighty narrow and the gate is mighty near closed on the road that will admit any negro to the franchise. They would be very few and far between, like an angel's visits, and even without this, the conditions are such that you would find eliminated from the franchise about three-fourths of them. Now, gentlemen, is it good to be radical in anything, or is it not best to be reasonable? We have a race of people amongst us here, and I am not one of those who concur in the opinion that there is a race-war on.

Not so. Some claim that there is a race war that is as irrepressible as was the conflict between free labor and slave labor as proclaimed by Lincoln. Not so. They say, "Oh, well, history shows that two races of people never did live in the same country long. The white race always drives out the colored and inferior race." Are we not people of the United States? Are we not Southerners who fought for four immortal years against four and a half times our own number, and carried the flag of the Storm-Cradled Nation to victory on a hundred fields? Is it not possible for us to do what no other people have done? I maintain that it is. Some people say you cannot, while the negro is here unless he is thoroughly subordinated and practically a slave. I say no, you can admit him to some participation in our government so long as the white man rules, and he ought to rule, but he ought not, because he is strong like Samson, to strike down the weaker, who gets in his path, when God and the Bible teaches him to do kindly unto those who are in his power.

The PRESIDENT: The time of the gentleman has expired.

Mr. SANDERS (Limestone): I move that the time of the distinguished gentleman be extended for twenty minutes.

Upon a vote being taken, the motion was carried.

Mr. OATES: Gentlemen of the convention, I thank you for your kindness, but I will endeavor not to consume much time. I am not a man who loves to speak just to hear my voice. I have heard it long enough, so that I am not particularly enamoured with it.

Now, this thing presents to us a problem much deeper and broader than that of merely going to the polls and casting a ballot and electing somebody to office. It is one that affects us and our future for years and years to come What is it? Will we completely exclude the negro from participation—all participation—in the affairs of our State, or will we allow a reasonable number of them—the better element of them—to go to the polls and vote? In a people so large a minority of the population as they are—eight hundred thousand, and whites ten hundred thousand, eight hundred thousand out of eighteen hundred thousand—did you ever in all your reading know of a people, and so large a minority as that, who were not allowed any voice at all in the affairs of government who remained contented under that government? Have you ever heard of so large a minority who have been admitted into the participation of the affairs of government for thirty years, who were afterwards silenced? Will not there be disturbances? Why, some of these people are becoming very intelligent and acquiring property, and gentlemen, it may not occur next year, or the year after, or five years hence, but, if you go along with

this and practically none of them having any voice in our affairs, you may live to see the time of outbreaks and troubles not now contemplated, such as every man who participates in making it thus will live to regret. Let them occupy a subordinate position, but do not silence them. Let the better element of them, though of an inferior race, who have won the confidence of their neighbors, won respectability and acquired property—allow all of that class a fair showing, and let them go to the polls and vote. There is no danger in that. Exclude the densely ignorant and corrupt. I do not stop at the exclusion of the negro, but exclude the whites of this class and deny to them the right to vote also. The privilege of voting is not a natural right. Those ladies up there are citizens, and naturally have as much right to vote as I or you or any of us, but the voter is one who is selected on account of his supposed capacity for handling the ballot wisely and well. He handles it as a trustee. He votes for his wife and children, and for his neighbors who are denied the privilege. Take it on the basis of all males 21 years of age and upwards, it is about five to one, and he is voting for four others as well as himself on that broad basis. I would not allow the ballot, if I had it in my power, to go into the hands of a vicious and notoriously corrupt white man any more than I would a negro, in fact, I would not trust him as quickly as I would a negro of intelligence and good character. You want that matter handled wisely and well for the best interest of the community. It is not a racial question. If you propose to make it a racial question, what would be the end? As some say, the extermination of the negro. Prepare him and then send him back to his native Africa? That is a doctrine that is advocated now, not only by some men, but by some statesmen. Gentlemen, it is an utterly impracticable thing. In the aggregate there are ten millions of these people in this country. They are citizens not only by our State laws and our State Constitution but they are citizens by the Constitution of the United States and it is so declared in that instrument. They have the right to go when and where they please as other citizens. The power don't rest in the government to rob them of this right or to colonize them in any other country. Then there is the labor question. Why, as I sit in my door and look out, who is it that fixes all these telegraph and telephone poles on the street? I have never seen a white man on one of these poles. The negro performs nearly all of the labor down here in this country, and isn't he better as a contented man than a discontented one? Wouldn't it pay us to treat him right, and give him full protection under the law and give him a voice in the affairs of State, and retain him here, rather than to engage in this impracticable theme of a race conflict and his expulsion? We do not own any lands in Africa to which we can send them. Such

land mostly belongs to European nations, and even if we had that power, and he were not a citizen, where are the vast sums of money to come from to take him over there and settle him? You would not take him over there to starve. You would have to support the whole colony for a time. Then what would you do for labor in the South? The climate invites them, and the occupation of our people invites them here, where we raise cotton, the great staple product of this country. Here where we have been raised up among the negroes, nine-tenths of these delegates know that there is an attachment between them and the white people which I say ought not to be disturbed. My friend, the delegate from Greene, on yesterday told us how he was shot down on the battlefield of Chickamauga, how his faithful slave and serving man attended him, stopping to serve him when he could have gone off to the other side and have been free. The negroes knew what that war was for. They knew that their freedom was involved. Yet, look at their conduct, in the main, all through the South. They remained at home and made corn and supplies to support our armies in the field, and throughout the length and breadth of the Confederacy there was not a single outrage perpetrated upon any man's family, or any woman or child, or helpless person, by these people, although they were slaves. President Lincoln called for 75,000 troops to serve for ninety days to put down the rebellion, and he expected these negro slaves here would rise in insurrection and apply torches to the homes of their masters. Sadly mistaken was he. There never was such an instance in the history of the world, as of this devotion of the slaves to their masters, presented during that remarkable conflict. Gentlemen, my memory is good, I do not forget such things, where they have shown devotion to us. It may be exceptional in individual instances, but can we blame them for showing gratitude to those whom they believed had freed them, and those they believed had enfranchised them? Another case, on all-fours with that stated by the delegate from Greene. I will draw a comparison. A negro whose name was Willis Hill, the servant of Captain Hill, of Company D, in the 5th Alabama, that on the morning of the 6th of May, at the Wilderness, when Longstreet's corps got in there, and Hancock had enveloped completely the right of Lee's army, almost doubling it up, and Law's Alabama brigade came in and formed left of the Texans and north of the plank road. The bullets were flying from the right and the left, and front; the roar of artillery, and the bursting of shells, just at the time when that grandest of men, Uncle Robert, as the boys called him, went in to lead the Texas brigade, and the soldiers caught his horse by the bridle and refused to let him go. Just

then the 5th Alabama regiment went into line to go forward, bullets flying in every direction, and men falling; and just when we commenced to move forward, that grand commander, Robert E. Lee, asked, "What troops are those?" and they replied, "Law's Alabama brigade." He said "God bless the Alabamians." Just then that negro Willis—I do not know but what he yet lives in Barbour county—seized a gun and took a place in the ranks, and fought on as gallantly to the close as any white man in those ranks. I will draw a comparison between him and a white man who belongs to another company in that same regiment — a cross-roads bully — and when under fire, where shells and shot were so thick that it looked as if no man would escape, he lay upon the ground. I ordered him on the line to fire, and do his duty, and he moved forward an inch or two, and stuck his head down again. I quilted him with stripes all over his back with my sword to force him to fight, and he falsely said, "I am wounded." He got up and rode saplings ten feet high running to the rear and out of danger. He was a white man! You tell me that man is better than Willis Hill, that negro? No. I would trust the ballot or anything else to Willis Hill a long ways in preference to that white man or his son. All white men that were soldiers are not angels, nor are the descendants of them. No man honors a good soldier more than I do. My association with them was from the first to the last. It was my fortune to serve in an old regiment that was in thirty-nine engagements, as the roll will show from the files in the Adjutant General's office. I happened to be in twenty-seven of them, and while it is no concern to you how many marks of bullets are on my body, I did my duty, and I am going to do it here, and everywhere else, as long as God lets me live. (Applause.) But, gentlemen, it will not do for us to undertake to tie our hands to anything that don't run right all the way through. I want to be a little broader and more liberal than that. I have no contentions with this committee, of which I have the honor to be a member, except where based on my conscientious conviction, and I concede to them their right to differ with me as broadly as I claim the right to differ with any of them.

Now, gentlemen, there is this other objection to this provision. I tell you it is a regal form of government, or royal form of government, which is sustained by the doctrine of inheritance. It never has a place properly anywhere in our American form of government. I would like, if I only had the time, to have read some of the letters I have received from our distinguished Senator. I have not always, nor do I now on every question agree with Senator Morgan, but I can say of him from my long acquaintance with him, and my close obser-

vance of his work in the Congress of the United States, that he is a learned man, the most learned and versatile man in the Senate of the United States. (Applause.) He is a patriot. He is learned in the law, and the old man's heart is in his work and never in money. It is in completing that great column of glory that he has erected to himself by twenty odd years of service there, that he is now engaged. Of his letter to me on July 2nd, I will read only one paragraph: "My Dear General—I agree with the minority in their objections to the second subdivision of Section 4 of the suffrage ordinance reported to the convention. The language of the subsequent sections," and then he goes on to discourse upon it generally.

Now in another letter of July 10, from Warm Springs, he says, "My Dear General—If I were to address you by the title I would prefer, it would be that of a Confederate colonel, but you and General Wheeler and others have united in your military histories events that are so significant of the restored harmony between the white citizenship of the United States, and so honorable to the motive that has influenced your action, that I am proud to address you as Brigadier General of United States Volunteers. Surely the people of the North will give you credit for honesty when you still proclaim the necessity for white supremacy, secured by law, in the States that are dominated or threatened with negro supremacy in government, to a degree that requires the unlawful manipulation of the ballot box as the means of public security. In the letters I have written you and others touching the action of the constitutional convention on the suffrage question, my purpose has been to suggest rational methods by which white supremacy can be secured by the laws that are consistent with the Constitution of the United States, and as my letters to members of the convention are intended only to promote its purposes without reference to the questions of party policies, I have no wish that they should be treated as private or confidential. Every citizen has the right to offer suggestions on such a matter, and it is no intrusion if they are made in respectful terms. I have the additional fact that as a Senator, I must answer in debate and by my vote on questions that are certain to arise in Congress relating to negro suffrage, to excuse my anxiety as to what will be the action of the convention. Consequently I have written letters to you and the Honorable Frank S. White, Honorable B. H. Craig, and others, all of which are to be used in the discretion of the gentlemen to whom they are addressed."

I have presumed, Mr. President and gentlemen, to read that much of these letters from Senator Morgan to show you why it is he is interested so deeply not only as a citizen but as a Sen-

ator in what we do, and whatever constitution we adopt will be brought under review, and attacks will be made upon it. He is our mouthpiece to whom we must look to defend our action here. Then ought you to put anything in the constitution which is not absolutely essential to your welfare, which would embarrass him, and his associate, Senator Pettus? Answering any and all of these questions I think not, I think it is, as I stated before, wholly unnecessary and it is un-American. Why should we have any inheritable political right? Did you ever hear of it before. Why our country and government proceeds upon the hypothesis that commonly speaking every tub stands on its own bottom, and it ought to so stand. That is Americanism. Not that there should be an inheritable political right, with respect to voting or anything else. We do not want to do anything of the kind. Some say, however, and the able delegate from Greene (Mr. Coleman) in his speech says, who would deny the right of the son of the father that wore the gray in defense of his country? Ah, that is a narrow view! If the son was worthy of the father who did his duty, I would say never deny to him the privilege, but not give it to him as a right established by inheritance. We must not shut our eyes to the facts that there were a good many that wore the grey who did not wear it very honorably. We know that. We know that we had to conscript hundreds and thousands of men and send them to the front, and as a rule they did themselves no credit. They made records as a common thing which I do not think would reflect credit upon their sons, for a large number of them deserted, and you know it, or every old soldier knows it who did his duty, that this is true. If you adopt this provision, it means those who fought in the Union army as well as those who fought in the Confederate, and there were a few negroes in the Union army during the civil war, and that is all. There were none in the prior wars, in not one of them was there a negro, for they could not go in. There were a few in the Union army from Alabama along towards the close, but is it not a principle which is wrong in itself, and which we ought not to be parties to? We claim a good deal for ourselves, as being Democrats, standing on Jeffersonian Democracy, and if we do, ought we to adopt any questionable means here in order to give a white man the preference over the negro? Do you suppose that any white man would be proud of legislation which gave him such an advantage, to keep him out of competition with the negro for the obtainment of the political right? If so, the man that seeks such an advantage as that is unworthy of having it.

Mr. WALKER (Madison): Mr. President, the distinguished character and ability of the gentlemen who have oposed the

majority report of the Committee on Suffrage, demands the consideration of the objections that they put forward and an attempt on the part of those who are responsible for placing before the convention the proposition involved in the majority report to sustain that proposition by argument. I have had the honor to share in the deliberations and the work of the Suffrage Committee. I have concurred in the conclusions reached by the majority and I propose within the time allowed me to meet some of the objections that have been urged against the proposition that has been presented to you. It is well in the first place to understand what the majority proposes. It is well to understand what they undertook to do, and to understand the methods and ideas that they undertake to put into practical operation. The fact that we are here, the fact that this Committee on Suffrage had imposed upon it the duty of reframing our fundamental law so far as the suffrage is concerned, is the result of a great movement of public opinion in Alabama. That public opinion has become clear and defined on certain propositions. One of those propositions is that the right to vote should be taken away from certain citizens who under existing law now possess that right. Another proposition is that the right to vote should not be taken away from a large body of citizens who under the existing law possess that right, and have used it in the interest of social order, security and progress. Our mission here is to strike at the evil in our electoral system and to let what is good in it remain as it is. To carry out these objects we are expected to put into operation the power to act upon this subject which the State of Alabama has, and to refrain from the folly of undertaking to use a power that has been taken away from us. Now the Committee on Suffrage and Elections has long and carefully deliberated upon this subject and has come to the conclusion embodied in the report that is placed before this convention for its action. They have undertaken to enumerate the citizens of Alabama who should be allowed to retain the right of suffrage and they think they have enumerated all of our present voting population who are fit and competent to retain the right of suffrage when they name the soldiers who have fought in their wars, the descendants of such soldiers, and all others who are of good character and who understand the duties and obligations of citizenship under a republican form of government. But a minority of the committee composed of four distinguished members have singled out one clause in that enumeration and have made it the object of their attack. That clause is the one that names the descendants of men who were soldiers in the wars of this country down to and including the great war between the States, and the main ground of attack by the minority upon

that clause is that in effect it denies or abridges the right of citizens in this State to vote on account of race, color, or previous condition of servitude. Well now, gentlemen, when you stop to consider that the clause which is attacked is a mere enumeration of certain citizens who shall have the right to vote, some of whom are white and some of whom are black, and that it does not deny or abridge any one from the right to vote on account of race, color or previous condition of servitude, directly or by words of exclusion. The objection is further remarkable, I submit, in that it loses sight of the very plain proposition that the clause which is attacked is one clause only in enumeration which includes other clauses. When you undertake to classify and to enumerate to this convention the people in Alabama who shall retain that right of suffrage, it is impossible for any man to say who is excluded until the entire enumeration has been gone over and examined. No man who is neither a soldier, nor the descendant of a soldier, is in a position to say that his right to vote as denied or abridged upon any ground unless in the enumeration taken as a whole no place can be found for him. Now, is that the case here? Can anyone say in reference to the enumeration made by this committee that his right to vote is denied or abridged because his case does not come within the clause that is now the object of attack, unless he also goes further and puts himself outside the third category, which includes all who are of good character and who understand the duties and obligations of citizenship. The gentlemen attacking this plan, as a whole, must put themselves in the position of asserting that the State of Alabama has been deprived of power to limit the right of suffrage upon grounds of character and fitness. Can anyone say under the plan that is proposed by this committee that his right to vote is denied or abridged unless he puts himself beyond the pale of citizens of good character and who understand the duties and obligations of citizenship. You cannot single out in an enumeration one subdivision and say that that is the whole scope of the plan presented. You must look at the plan as a whole and determine whether or not that plan as a whole is open to the legal objections that are now asserted against it. Now, gentlemen, at this point in my argument, I will assume that it is competent for the State of
41 Alabama to fix and prescribe qualifications of character or of intelligence for its voters. Unless at least that much has been assumed we would not be here to deal with this question. In approaching this task, it is proper for us to take a survey of our population as it now exists in Alabama and to devise some means of separating that part of the population which should retain the right of suffrage from that part of the population who have demonstrated their unfitness to

retain that privilege. In this work of separation, several plans may suggest themselves to different minds. One plan would be to make some rigid rule of qualification, such as to his ability to read and write or the possesion of a stated amount of property, and require every citizen seeking the right to vote to come up to one of these tests. A test of that kind as applied to the period of transition, lying between the old order of things which we are here to do away with and the new order of things which we propose to establish, would operate unjustly upon a very considerable part of our voting population who are uneducated or are without property, but who have had the right to vote and have exercised it and still exercise it in the interests of social order. Another plan that might suggest itself would be to provide for the submission of his qualifications by every individual in Alabama claiming the right to suffrage, to some official or body of officials appointed for the purpose of passing upon the question of qualifications. That plan would be subject to this objection, that the power conferred upon such official necessarily involves the possibility of the abuse of that power and suggests that so far as practicable, the exercise of power which may in this way be abused, should be confined in its operation to as narrow a field as possible. Another plan that suggtss itself and one that has been adopted by this committee, is to separate from the general mass of our voting population some considerable well defined group of citizens now having the right to vote who have demonstrated their fitness to continue, to exercise that right, to say plainly that the group of citizens shall retain the privilege which they have exercised properly, and to provide that those not forming a part of that group shall have their fitness and qualifications passed upon by an official or by a board established for that purpose. Now, gentlemen, that is the plan that has been adopted by this committee. They have segregated from the mass of the voting population of Alabama that body of citizens included in the description of soldiers and the descendants of soldiers, and have opened the door to the right of suffrage to all others who can bring themselves within the definition in the third clause of the article, namely, all others who are of good character and who understand the duties and obligations of citizenship. Now, objection is made to this upon the ground of its unconstitutionality, upon the ground that it is not warranted by good policy; upon the ground that it is arbitrary and capricious. Why, gentlemen, we are here to undertake to meet those grounds. Now, who are the soldiers and their descendants? They have the right to vote now. They form a distinct and well-defined part of our present voting population. For more than a generation they have participated in the public affairs of this country and as a body

have participated freely and without injury to the public interests. They constitute a well-defined and prominent part of our citizenship. Objection is made by the distinguished gentleman from Montgomery that there will be found in this class that we have named in this way, some who are unfit to be voters because of deficiency in character or deficiency in intelligence. The same thing could be said about any other general qualifications that might be prescribed. Make reading and writing the general test. There will be no difficulty in the world in finding many men who can read, and many men who can write who are totally devoid of the qualities of good citizens. Make the possession of a certain amount of property the test. There will be no difficulty in finding men with that amount of property who are vicious and debased and wholly unfit to exercise the privilege of citizenship. I submit, gentlemen, that, take the body of our citizenship that you segregate by describing soldiers and their descendants and you take a body of men whose capacity for self-government has been more fully demonstrated than a like body of men with education or with property that you might select in any other part of the world. That is a body of men who have assimilated the principles of our Government. The proportion of the unfit among them is hardly an appreciable quantity. Let me ask you this question: If the right to vote in Alabama had heretofore been confined to the soldiers and their descendants, would we have this suffrage problem now? (Applause). If this State could suffer this misfortune of having taken out of its body politic the soldiers and their descendants and have them transplanted to any part of the world, civilized or uncivilized, that group of citizens would transplant Alabama's self-governing system upon whatever soil they occupied. Carry them to the Philippine Islands or to South America and colonize them there, and you would carry the right of trial by jury; you would carry an alert public opinion; you would carry the principle of no taxation without representation; you would carry the rule of the majority. Our popular system of government would go wherever those men went. Is there a political philosopher or a practical statesman in the wide world who would look upon that body of men and propose to take away from them the powers of self-government, unless he was an open enemy of popular government? As the distinguished gentleman from Montgomery said, we are here to deal with conditions. The majority say, leave the right to vote to the soldiers and their descendants, because there is no reason for taking it away from them. Is that not practicable statesmanship? Are we to deal with something from which we have suffered no evil? Are we to erect some imaginary arbitrary standard here that will operate to take from that portion of

the people of the State of Alabama who have demonstrated their fitness the right to exercise the privileges of self-government, in order to make harmonious some political scheme? Why, gentlemen, we are dealing with a practical problem. We come here to take the right to vote from those who abuse the privilege and as to those who have exercised it rightly to leave it just where it stands. Is anything more done? Is that not the general result of the action of the Suffrage Committee? Can any man say that that body of citizens have not more fully demonstrated by their history that they are qualified to retain the privilege of suffrage than any other body of men that may be found in any part of the world? That body of citizens, though scattered over the face of American society and spread in every direction, yet is as distinct as is the Gulf Stream in the waters of the Atlantic. The question is, shall we take the right away from them? They already have the right to vote. We are not conferring it upon them. We are here to strike out the evil in our electoral system and to let what is good in it remain as it is. This is a movement of reform, gentlemen, but reform becomes mere folly when it strikes out blindly and tears down what is good as well as destroys what is bad. We have confined the exercise of the power that is vested in us to that which is bad in the system we are dealing with, and when you analyze the proposition that we have submitted to this convention, you cannot find that our action has gone beyond that. There would not have been any convention here if this body of men in whom we propose to leave the right of suffrage, had alone up to this time had that right. There would not be in any part of this country a movement to abandon the time-honored custom of universal suffrage unless our voting population had been diluted or polluted by the infusion into it of elements that ought to have been excluded. We here in the South have this problem to deal with, because the self-governing element of the population in this part of country has been vitiated by the injection into it of a large mass of ignorant negroes. In other parts of the country, the proposition to limit universal suffrage has been brought about by the fact that the old American stock that held aloft the possibility of free government by a free people had been diluted by the infusion into it from foreign parts of the illiterate and incompetent. This is a practical question to be delt with by practical men. There has been in America no proposition to limit the suffrage except to meet conditions which have been brought about in one or the other of those two ways. We are here to deal with the practical question before us and not to become idealistic reformers. Gentlemen, reading and writing, or the ownership of property are not the best evidences of a capacity for self-government. There are all over the world

men who can read and write and men who own property who are totally unfit to participate in the kind of government we have here. The best evidence in the world on the fitness and capacity of any body of men to take part in the popular self-government as we have it here and as we wish to maintain it is the fact that for a long period of time that body of men has participated in the forms of self-government as they prevail in this country or in England. If we are attached to the system of self-government, which we have heretofore enjoyed and wish to perpetuate it, is there any reason under heaven for taking the privilege of voting from the men who have vindicated before the world that system of government.

Mr. COLEMAN: I move that we remain in session twenty minutes longer.

Mr. HOWZE: I move that the gentleman's time be extended thirty minutes.

Mr. COLEMAN: The gentleman says he would rather conclude after dinner. I move that he be allowed thirty minutes longer.

The motion was carried and thereupon the convention adjourned.

Afternoon Session.

Convention was called to order by the President and the roll being called showed the presence of 119 delegates.

The PRESIDENT: The special order for this afternoon is the consideration of the report of the Committee on Suffrage and Elections. The gentleman from Madison had the floor when the convention adjourned at noon.

Mr. WALKER (Madison): I regret that I have to avail myself of the kindness of the convention in extending my time on this occasion, but whatever excuse I have for taking up more of your time now than was allowed to me on the division of time for the argument of this matter, must be that I have not on former occasions unduly trespassed on your time, and I will ask your indulgence for a few minutes further. It seems to me that the most successful attack that the opponents of this special feature of the report of the Committee on Suffrage and Elections have been able to make upon it has been in the fact that they have succeeded in fixing a nickname upon it. They have succeeded in having this provision appear before the public under the nickname of the "grandfather clause" or the "grand daddy clause," and a great many people are so constituted that they are unable to treat except in a spirit of levity anything that makes its appearance before them under a nickname. But the people who have been misled by the nickname

in referring to a provision of this kind as the grandfather clause, or granddaddy clause, have put themselves in a position I submit on the losing sight of the real meaning and effect of the provision. It is that expression that has fixed itself upon this provision that has enabled some gentlemen even in this convention to base upon that the idea and the argument that this provision operates to establish a class of nobility or a system of heredity privilege or honor in this State. Well, gentlemen, if you stop to consider what is a class nobility and what is the meaning of the bill of rights in speaking of an heredity honor or distinction, you will see that these terms cannot, with propriety, be fixed upon this provision. What is the operation and effect of this provision? Is it to put in any man's hands now the privilege of the ballot and to make that a piece of property to be transferred by will or otherwise at his volition? Not at all. What is its construction and effect? How did those people who have the right now acquire it? They acquired it, not as an hereditary privilege or distinction. They acquired it by coming up to the requirements of the existing laws. They have it now. In leaving it with them we give them nothing but what they already have. Is the ballot now in the hand of the soldier, or in the hands of anybody else in Alabama a special privilege or an hereditary distinction, to be used as if a piece of property that would be transmitted by inheritance and go from father to son, whether the son came up to the requirements of the law or not. Not at all. The operation and extent of this provision is simply not to take away from a body of citizens the privilege of voting which they now exercise, and to refrain from interfering with that privilege upon the ground that their history has demontrated that there is no occasion to take it away from them. You simply find a body of men exercising that privilege now, and looking upon that body of men in the light of their history you say it would be folly to attempt to take it away from them. I understand an hereditary privilege to be one that is transmissible by inheritance, and goes by inheritance regardless of other considerations. Will some gentleman who maintains this position in the minority report explain how the ballot now in the hands of the soldier becomes any more an hereditary privilege than it has been in the past?

The extent of your objection has been not to take away the ballot they have not abused.

Mr. LOWE (Jefferson): May I ask the gentleman a question?

The PRESIDENT: Will the gentleman yield?

Mr. WALKER: Certainly.

Mr. LOWE: The ballot is also now in the hands of the naturalized foreigner, is it not?

Mr. WALKER: Yes.

Mr. LOWE: But in the provision you now seek to incorporate in the constitution you make a distinction between the son or descendant of a soldier and the naturalized foreigner. Would it not establish one test for one and another test for another?

Mr. WALKER: I see that the minority have changed their ground of attack. I was addressing myself to the position that was solemnly taken by this minority when they came into this convention. I will come to the new ground that has been taken since their first position has slipped from under those gentlemen. I think I have said enough in reference to this matter to justify the action of the majority of the Committee on Suffrage and Elections as to the policy of not taking away from the old soldiers and their descendants the rights which they now have. I will now, Mr. President, very briefly address myself to the power of this body to take that action. In doing that, gentlemen, I will call your attention to the power and faculties which the State has to deal with this question of suffrage before that power was in any respect invaded by constitutional legislation of the United States. I will invite you to the inquiry as to what was the extent of the power before there was adopted any of the amendments of the United States Constitution which operate upon this question in any respect. I will then invite you to consider the extent of the power that was left when those constitutional provisions are given their full operation and effect. The end of the great war between the States found the State of Alabama with full and practically unrestricted power to deal with the question of suffrage. Under that ample power left in the State by the Constitution of the United States as it was originally adopted, the State of Alabama could confer the right to vote upon any man, and could deny the right to vote to any man. The sole limitation upon its right of selection of its voters in this matter was the one provision in the Constitution of the United States, the fourth article of it, that the republican form of the government should not be changed. So long as the republican form of the government was maintained in Alabama, no matter what might have been the restriction upon the right to vote here, there was no right of interference by the United States Government. Now what was the extent of the operation of the Fourteenth Amendment upon this power of the State? So far as the Fourteenth Amendment dealt with the question of suffrage, the extent of its provisions was to put the penalty upon a State which exercised its power of limiting the suffrage on any other ground than that of participation in rebellion or other crimes. After the passage of the Fourteenth Amend-

ment the State of Alabama was still free to exclude from its suffrage all black men and to include all white men, and the extent of the operation of the Fourteenth Amendment upon the power of the State was that in the event of the exercise of that power so as to give the right to vote to all white men, and to take it away from all black men, was that its representation in the Lower House of Congress might be reduced in proportion to the number whose right to vote was denied. Now that was the extent of the operation of the Fourteenth Amendment. The right of the State to confer a vote upon all white men as such, and to exclude all black men as such, remained unimpaired. There was simply a penalty imposed upon the exercise of this power. Now while the Fourteenth Amendment did not mention the matter of race specifically, it is known as a matter of history that the occasion of the adoption of that amendment was the contemplated probability that in the southern States black men would continue to be excluded from the suffrage, and there was simply put upon this section of the country that penalty, involving merely the loss of a proportion of its representation in the Lower House of Congress. But the successful part of the country in this great movement of which the war between the States was a part, concluded that the extent of this restriction had not been satisfactory to them, and they concluded to go further. What did they do? They adopted the Fifteenth Amendment, which provides that the right of a citizen of the United States to vote shall not be denied or abridged by the United States of by any State on account of race, color, or previous condition of servitude. You will observe that they do not confer the right upon the class of men who could be excluded from the franchise under the Fourteenth Amendment. They did not confer upon them that right. While so far as the suffrage is concerned the Fourteenth Amendment was directed against the action of the southern States in depriving negroes of the suffrage, when it came to the adoption of the Fourteenth Amendment they did not deny the right of a State. They did not confer the right of suffrage upon that class of citizens who formerly might have been denied the suffrage. Now consider for a moment the variety of discrimination that might have been adopted by the States before the Fifteenth Amendment was passed, and then consider how far that wide choice was curtailed by the adoption of the Fifteenth Amendment. Before the Fifteenth Amendment was passed any State might have confined the right to vote to the educated, to the property holders, to natives, to persons who were the descendants of the people of this country at the time of the Revolutionary war, for instance, to persons who were the descendants of people who had migrated to this coun-

try from a certain part of the Eastern hemisphere, for instance, to persons who for a stated period of time had been accustomed to the exercise of the rights of popular government as it was practiced in England or in America; and they might have confined it so as to exclude all men of Spanish descent, or of French descent, or of Italian or of Polish, Hungarian or Russian descent. There was a great field of choice left in the State in reference to this matter. Now how far has that choice been curtailed? Certainly, certainly there has been no curtailment by that provision of the right of the States to make a selection from its population of those who by reason of intelligence or possession of good character were fit to exercise the suffrage. There was no requirement under the operation of the Fifteenth Amendment that all negroes should have the right to vote equally with all white men. There was no requirement that the proportion of negroes who were allowed the elective franchise should be the same as the proportion of white men who were allowed the franchise. I think some confusion in reference to the operation of this Fifteenth Amendment has found place in the public mind by reason of undertaking to apply to this question certain decisions, certain expressions used by the Supreme Court of the United States in dealing with the Fourteenth Amendment, and I submit that those decisions and those expressions which are relied upon are not properly applicable to this question which we are now dealing with. The two amendments are very different propositions. The Fourteenth Amendment, except in the respect that I have called your attention to it—operated upon the civil right of all members of society, the right to life, liberty and property, the right to follow all the pursuits of business, the right to make contracts, the right to sue in the courts, the right to have evidence, the same as everybody else, the right to have the laws against crime apply to all alike. That amendment in broad terms established a rule of equality. It operated to make the laws throughout all this broad land fall like the gentle dew from heaven upon all the people alike. The Fifteenth Amendment on the other hand, recognizd the existence of a rule of inequality. It recognized the right of a State to make selection of those upon whom the right of suffrage should be conferred. At that very time and up to this good time political rights are all conferred under rules of inequality. There is no such thing as an equality in the political right of suffrage. Under our present system we do already what the suffrage committee has attempted to carry farther. We establish qualifications as to character and qualifications as to intelligence, although under the system as it now stands lack of character cuts no figure unless it is so glaring as to put the person among those who are convicted of crime, has been pub-

licly and officially recognized by a conviction of crime. A lack of intelligence is also made a test of qualification to the extent of excluding those who are classed as idiots and insane persons. Now we simply, by this provision, fix a standard of character and intelligence. We draw the lines closer than heretofore drawn, but we are exercising the same power as was exercised when our present system was established, and I submit that the rightof making the selection with reference to the lack of character or lack of intelligence is one that is still left with the States, and that there is nothing in the Fifteenth Amendment to deny the validity of any provision which is really directed to the question of limiting the suffrage to those possessed of such character and such intelligence as to be entitled and qualified to exercise this right for the public benefit, and that no provision on the subject can be said to disregard that consideration when the people who are admitted to the suffrage can be shown to be admitted upon grounds of fitness of character,or fitness in intelligence,for the exercise of the privilege, and I submit that as to this clause the provision has as clear reference to the fitness and qualifications of the persons who are to come in under it as the other clauses which in so many terms confer suffrage upon the ground of the possession of good character and of the understanding of the duties and obligations of citizenship under a republican form of government. We give to the soldiers and their descendants the right which they already have because the history of that body of men shows that that right in their hands has been safely and properly lodged, because in that body of men there does not exist the evil which we are here to legislate against, we give it to them because they have had the best possible schooling in self-government, because they have lived and become a part of our population under conditions which have developed in them the capacity to enjoy the rights of citizenship, and I submit that it would not be in the power of any court to say that the selection of this body of men was not a selection made in reference to their recognized capacity to continue in the exercise of the suffrage. Gentlemen, I have consumed as much of your time as I feel I should take up, and I thank you.

Mr. WHITE: I move that the gentleman's time be extended indefinitely.

Mr. WALKER: I thank you, but I will not avail myself of any further time.

Mr. FREEMAN: Mr. President and gentlemen of the convention, I am somewhat in a different attitude from many of the delegates to this convention, inasmuch as I was opposed to the calling of this convention, because I saw no good reason for

calling it to amend the constitution of the State, when, in my opinion, the amendments, if desired by the people of Alabama, could have been made by the legislature, and saved the State from $150,000 to $200,000 for which the common people of Alabama will have to pay. Mr. President, I do not desire to say anything in reference to the grey or the blue, for I do think those partisan questions should not come up in this convention, for I feel that we have one of the greatest countries on the globe, and we should know no North no South, East or West, but should stand together as one people. And I do not desire to violate the Constitution of the United States if I know it.

I do not desire to take up your valuable time in this convention in a lengthy speech; but, Mr. President, I feel that I may say something in behalf of my constituents of Alabama in reference to the right of franchise proposed by the Committee on Suffrage and Elections. Mr. President, I do not agree with the committee on their report, for it does seem to me that if enacted it would be a failure.

It is so arranged that the plan could be so abused by politicians that, in my opinion, would be a disgrace to the State. You can take the words "all persons of good character," in section 1 of the majority report, and qualify whoever you desire and also disqualify whoever you desire; so, in my opinion, that part is a total failure, if you desire to disfranchise the negro as you claim you do by the calling of this convention.

Mr. President, I desire to notice Section 5 also on the majority report as follows: Those who, unless prevented by physical disability, can read and write any article of the Constitution of the United States in the English language, etc., twelve months preceding the time they offer to register, or own in good faith in his own or the husband of the woman who is the owner of forty acres of land situated in this State, or the owner of $300 worth of personal property in his or his wife's own name, for a year preceding which he offers to register.

Now, Mr. President, this section is not only discriminating, but humiliating to the white man of Alabama, and an enactment of this section will disfranchise thousands of white men of the State.

For the fact that they will feel the humiliation that this section refers to, and they will bow their heads with shame and shirk back from exposure to the humiliating effect this will have on them, and turn loose the State in a political life to gasp and die for the want of nourishment in the sense of illustration. So, Mr. President, in my opinion, this would be our situation in Alabama if this section is adopted.

Mr. President and gentlemen of the convention, I will never register my vote in this convention for anything that will have a tendency to disfranchise any white man in Alabama. Yet, I realize the corruptness in this State in the ballot system, and I would be glad to see a remedy, but I can't devise any remedy only honesty, and I realize that honesty is the only remedy for fair election by which the will of the people can be expressed. Now, the plan of a new constitution has been tried by other States—Mississippi, Louisiana, North Carolina, Maryland and others—and the right of franchise so enacted by those States are a failure, especially the registration and the grandfather clause, for the fact that the grandfather clause is too humiliating in the Declaration of Rights for the white man to come up and acknowledge his illiteracy under this clause to register to vote.

43 So, now, Mr. President, you see what Louisiana and Mississippi think of this plan. The Mississippi scheme has been worked over by the able hands of Senator Morgan. It has some brilliant advocates, but there is one point that sticks out that nothing can hide; nothing can change; nothing can justify it. It cannot guarantee the very reform which our conditions demand. Election under it would turn not primarily upon the will of the people but upon the partisan or factional allegiance of the registrars. Are the registrars for you, then you are elected; are they against you—if so, you can stand aside and wait for a new century, or go off and groan your life away for not being on the partisan side of the question, and ask that what time you do live, that God will direct the ravens to feed you as he did Elijah in the wilderness, as fate is against you and you must die.

For when this partisan Board of Registration is appointed by a partisan party or composed of a partisan party, the common people of Alabama has just as well say, "Oh, King, where is thou crown?" for it will be equal to monarchical government, and we will be subjects at their hands for disposal.

Mr. President and gentleman of the convention, I desire further to show you that the Mississippi plan of suffrage is a failure, for this reason: In 1888 the Democratic vote for President was 85,471, this being before the enactment of their new constitution. Now what do we notice there—in 1896, being one of the most exciting campaigns ever known in the South and yet in Mississippi there was only 63,859 votes cast for the President, a loss of 21,612 votes for the Democratic party only, and still there are negro voters in Mississippi since the enactment of their new constitution, while they claim this new constitution was to prohibit the negro from voting exclusively, so you see it is a failure.

So, Mr. President, we will now notice Louisiana's plan: They

have the grandfather clause and many other provisions in their constitution, and they also have some brilliant features at first sight. It seems to be popular here, and it is always popular where it has never been tried. Where they have tried it, the approval is not unanimous. It provides, as this report does, a general suffrage restriction, while one additional clause is that they provide that no one shall be subject to this restriction whose ancestors voted before 1867. This plan was supposed to let in all the white men who can't meet the general test, but the Louisiana people claim that is what it does in theory, but that is not what it does in practice. They further claim that the poor white people who cannot meet the general test have, in large numbers flatly refused to avail themselves of this grandfather clause. They are quick to see, gentlemen of the convention, that the very pleadings of this clause is a confession of defficiency. The more intelligent and capable the voter the more sensitive he is, but the very class of white illiterates that ought to vote will be kept out if this grandfather clause fails to stand the test before the courts—that is, if Section 5 becomes a law, which provides for an educational qualification.

So, Mr. President and gentlemen of the convention, I trust that you will not allow such a discriminating section ever to be written law in the great State of Alabama. So with this educational and property qualification in our constitution it will, to my opinion, stagnate business and stop immigration into our hill counties of this State from other States, for the poor man's freedom is all he enjoys in this world and this would deprive him of that God-given right.

After all why may not Alabama fall back on a simple poll tax provision of $1.50 from the age of 21 to 45 and this would guarantee our freedom and it could be met with by all deserving illiterate poor white men in Alabama, and we would not be subjects to adverse decisions from the Supreme Court, neither subject to a reduction in representation in Congress and the Electoral College of the Southern States.

So, Mr. President and gentlemen of the convention, in conclusion I wish to appeal to you not to allow Section 5 to be written in the constitution, which provides for education and property qualification for the reason should the grandfather clause be decided by the courts unconstitutional, many of our old soldiers and thousands of white men in Alabama would be disfranchised, and I shall never permit myself to vote for such a proposition, for during the time of the cruel war between the States, and also before the war of 1861, our school system of Alabama was very limited and our young men were deprived of the grand opportunities we now have, and our young men as well as older men were drug off in the war and never

had the opportunity we have now, and even after the war was over they were too poor to seek for an education as their property was all gone and their wives and children were in a destitute condition, and those who had families of their own, and the young soldiers who had no wives and children, had mothers who were left widows, and sisters who were left orphans, and those who loved their families, their mothers and their sisters had no time to educate themselves, and now for this convention to go and provide laws that will deprive those people from their rights is something more than I can do, for I never will disgrace my father's gray hairs by depriving him of the only free right this Government has granted him after he has fought for his country and his people and for what he thought was right. I do hope, gentlemen of the convention, that you will vote that part of Section 5 down and not allow it to go before the people of Alabama to ask their ratification of such, for it would not only be a shame on our fathers, but a disgrace to our State.

In conclusion, I wish to say that I shall at the proper time offer an amendment to Section 10 of the Committee's report on Suffrage and Elections.

Mr. GRAHAM (Talladega): I would like to ask the gentleman a question before he resumes his seat.

The PRESIDENT: Will the gentleman yield?

Mr. FREEMAN: Yes sir.

Mr. GRAHAM: I understood the gentleman to say awhile ago that he would not vote for any proposition that would disfranchise any white man.

Mr. FREEMAN: I did say so.

Mr. GRAHAM: I would like to know whether you would vote for any proposition to disfranchise any class of colored people?

Mr. FREEMAN: I will sir. I am willing to sacrifice anything on that line, but the white man, and the man of my own color, I shall never agree to sacrifice.

Mr. BANKS: This convention cannot afford to do anything unworthy of itself, inconsistent with its own dignity and exalted character. There are many great questions that must be settled by wise enactment of law and all these questions should be met in a spirit of fairness and in a spirit of utmost candor. There should be no dodging, no evasions, no trickery, no subterfuges, but recognizing the value of truth we should apply its rules and principles without fear and without thought of consequences to ourselves. This is not a political or party caucus met together for the purpose of gaining some party advantage under the specious plea of moral reform. This is not

a body of political tricksters who by the arts of political legerdermain or the skill of political jugglery would produce measures that the courts would condemn as shams and artifices to evade law, not to conform to it. This convention has great power, but it is not absolute. There are constitutional barriers to this constitutional convention. We ourselves are under authority, authority that we must fully and loyally recognize and obey, if we would expect to command the respect and obedience of those for whom we are enacting law. If a spirit of disloyalty to constituted authority is allowed to find a place in the organic law of Alabama, its poison will diffuse itself through this whole instrument and this constitution will lose its majestic place as the defender of society against wrong, and will furnish an excuse and plea for lawlessness. Our ears must be deaf to the clamor of passion and prejudice, to the loud behests of party frailty and to the mean and deceitful plan of expediency when we stand face to face with dangers like this. Let us seek to conform to that law that we have sworn to obey—not gingerly, not partially, but freely and fully.

The conditions from which we are seeking relief are bad, and great harm has resulted to Alabama from the evils that have grown up in our midst out of these conditions. There has been one great safeguard for us, and that is this: Law has never sanctioned immorality. We could not plead that law itself justified and approved the violation of law.

One of the great questions before the convention—and in the opinion of many the greatest question before us—is the regulation of the suffrage of Alabama. There are peculiar difficulties in Alabama and the other Southern States that confront us in the settlement of this question. It is an old question—one that had its origin in the institution of African slavery in the South—that grew in intensity and bitterness until it precipitated the most disastrous war of modern times, costing the Government of the United States billions of dollars and almost a river of blood and tears and that cost the South—we have no measure by which we can estimate the cost and no desire to detail the horrors of that sacrifice. As we began again the struggle for existence in the most desolate of homes, dispirited by defeat, weakened by four years of war and with many of our bravest and wisest men slain in battle, we were confronted by a new phase of this same negro problem. The recent emancipated slave entered the race of life with his former master as a competitor for political honor and for all the best prizes in every sphere of life. Under the direction of shrewd political leadership for a time he had the advantage, but it was only for a brief period—for nothing is sure—not a law of nature more inexorable than her decree that in

every sphere inferiority must yield to the control of the superior. For the past twenty-five years there has been no negro domination in the South and there will never be again unless the time should come when the negro will be superior to the white man in character and intelligence. But despite this fact and despite the fact that the South is no longer apprehensive of negro domination, the negro problem is still the malignant, fretting, running sore on the body politic and Alabama is sick and every fiber of her political organization is suffering from the poison of this plague spot. Alabama is pleading for relief and she has called this convention for the purpose of devising plans that shall give her relief. In 1861 when she felt that the question of African slavery was to be a source of perpetual strife so long as she remained in the Union, the South determined to end the strife—to settle the question by withdrawing from the Federal Union. The results of that plan are fresh in our minds. After the close of the war when the negro problem assumed a more aggressive form, believing that the safety of every Southern Commonwealth depended upon speedy relief from negro rule, the fact that the end justified any means that would secure it she swept away all legal barriers that interposed themselves between her and white supremacy. The question of white supremacy has been settled. We have here a constitutional convention and there is not a representative of the negro race to be found among its one hundred and fifty members. Are not these strange and anomalous conditions when we remember that the negro problem is still the unsolved, unsettled problem before this convention.

The methods of 1861-1865 ended the controversy over African slavery, but they resulted in the more serious problem of negro supremacy. The methods of 1870-1875 ended the problem of negro supremacy, but they have resulted in such corruption at the ballot box as has destroyed confidence among white men and weakened the very foundation upon which popular government is based. Now this convention stands face to face with another imperious demand for change—some new plan by which she may forever settle this oft-recurring question that like Banquo's ghost, will not down at her bidding. There have been many plans suggested, nearly all looking to one end—the disfranchisement of the negro race. If it were possible to do this then there would be a serious question in the minds of many good men in the State as to the wisdom of such a course. Would that settle the negro problem? It would settle this phase of it just as the war of 1861-1865 settled a phase and as the methods of 1870-1875 settled a phase, but as in the past so in the future, would it not assume a more virulent and more dangerous form than ever before? If it were possible for this convention to entirely disfranchise the negroes of Ala-

bama then it would be well to consider and well to make effort to answer this question. But we cannot disfranchise the entire race and so we are shut up to the adoption of other methods of relief. Let us calmly and dispassionately consider this whole situation. More than a third of the population of Alabama are negroes. They constitute more than half of the laboring classes of the State. In intellectual power and capacity they are inferior to the white man and in moral attainments they are far behind him. There are, however, possibilities of growth and development in the negro, possibility that should be brought out. The negro is here, he is here in vast and increasing numbers, he is here to stay: He is here to affect the life of Alabama, her commercial life, her political life, her moral life. He is here to expand and uplift and ennoble the white race or he is here to degrade and brutalize it. The two races are to be of mutual service and mutual blessing to each other or they are to be of mutual hindrance and a mutual curse. This harmony and prosperity of the two races must depend upon their mutual good will and mutual fair dealing.

Mr. JENKINS: If the Suffrage Committee were to get up some scheme that you thought would accomplish the purpose that we aim at would you inquire into the details of the scheme that would accomplish the purposes?

Mr. BANKS: Why, yes.

Mr. JENKINS: Will you answer this question. If the main proposition is not the accomplishment of the purpose
44 and not so much the scheme by which it is to be done.

Mr. BANKS: Methods have a great deal to do with it. I always inquire as to methods. Methods are important. I do not belong to that class of men who do evil that good may come of it. Not at all. Methods are as important as the ends that you desire to accomplish.

This convention is here in the interest of these races and as we have said one of the important questions for it to determine is what shall be the political status of the negro race, this race constituting such a large part of our industrial population. The Constitution of the United States says that we shall not discriminate against him on account of his race, color, or his previous condition of servitude, and we have solemnly promised that we will not discriminate against him. The Constitution of the United States has conferred upon them rights in a general way, and says that he shall not be debarred from those rights because he is a negro, and among those rights are the rights of American citizenship. It has not said that he shall be endowed with those rights because he is a negro but it says he shall not be deprived of them because of that fact. As we have said, let us deal with this and with

very question that we consider, in a spirit, not of passion or prejudice, but in a spirit of fairness. Let us be willing to accord the negro his rights. Let there be no discrimination or even attempted discrimination, because he is a negro. It is important that we shall have white supremacy in Alabama, not because of the color of white men, but because of their character and mental superiority. The disqualifying principle in the negro race is not color, but character and the qualifying principle in the white race is not color but character and mental superiority. The contest between the two races for dominion is an unequal one. The natural advantages in favor of the white man are so preponderating that he has nothing to fear in the struggle. There are possible dangers of negro domination. One of these dangers is to make too low the standard of citizenship. The higher the standard the greater the advantage to the white race, the lower the standard the less the advantage, because the contest is then waged on grounds that give greatest advantage to the inferior race. The higher the standard erected the further you remove the struggle from all danger of failure by the white race and from the need of employing those methods that are purely physical or brutal and immoral. The contest between the races waged on any low plane not only gives advantage to the less favored race, but it will serve to perpetuate the continuance of those methods that have brought Alabama into so much trouble and that will produce great friction between the races. The necessity for a high standard of citizenship appeals strongly to every friend of both races and especially to those who feel that white supremacy is necessary to the good of the State. Why should this convention be tempted to adopt a policy that subjects it not only to the charge of wanton unfairness, but to the imminent danger of having its work declared unconstitutional and thus bring upon itself the ridicule of fair-minded men everywhere. Upon the settlement of this question by this convention momentous issues hang. You are not only to determine what the status of the negro shall be but you are to fix the moral as well as the political status of both races. The attitude that the organic law of the State assumes toward the negro will unaviodably affect his standing in every sphere. Society will naturally conclude that if his rights under the Constitution of the United States can be taken from him, and should be taken from him, that the welfare of the white man demands this, then he may be deprived of any right or seeming right, if by the exercise of that right he becomes the competitor of the white man. If the organic law does not regard his every right as if it discriminates against him under the plea of expediency what will become of his right under the statutory law and before the courts of the

country? Does it not point to him and to his as legitimate prey for every plundered?

But how is this to affect the white race—this Anglo-Saxon race of whose achievements we are justly proud and whose future promises so much to civilization? Is this race beyond the reach of temptation? Can nothing corrupt it and nothing impede its march onward and upword? The history of other races furnishes not only an answer but points with warning finger to the dangers that threaten this great race. If you give men the power to oppress, the temptation to use that power to advance sordid ambition or to gratify passion or prejudice appeals with irresistible force to human nature whether that human nature is in the form of Indian, African, Mongolian, Latin, or Anglo-Saxon. In making it possible for white men to degrade the negro by oppression you provide the methods by which white men will become brutalized. Do you not read in the signs of the times the prophecy of this danger? The more degraded the inferior race becomes the more inevitable is the brutality of the superior race. This race question is one of the great world questions that must be settled. What are the dominant races to do with the inferior races? is one of the many problems that steam and electricity have propounded to the philosophers and statesmen of the twentieth century. Alabama is intensely interested in its solution. She is one of the centers of this great world storm that is rapidly overcasting the whole political sky. Will she rise to the dignity and importance of this question? Will she lay aside all passion, all prejudice and in the steady, clear light of reason and justice settle righteously and therefore permanently, this great question? Every State in the United States is waiting to hear Alabama's answer. She is represented by 155 white men who are supported by the public sentiment. Louisiana, Mississippi, South Carolina and North Carolina, in depriving the negro of the rght of franchise by methods whose legality and fairness, to say the best for them, are questionable. The States have temporized with this question. The history of the past would indicate that it will assume some other and perhaps more malignant form in the future. Will Alabama settle it? Let us hope so.

The white race of the State is greatly at advantage by erecting high standards. It insures white supremacy, and we cannot compute the gains to both races in the vast improvement of the economic, the political and moral conditions of the State. It places this convention absolutely above the criticism of that class of acrimonious South haters who never leave an opportunity to malign us. It does more—it gives us the moral support and endorsement of right thinking men everywhere.

It accords with the principles and traditions of the Democratic party—equal and exact justice to all, special privileges to no one, is one of the maxims of the party. It agrees with the spirit and genius of our free institutions that the right of government is based upon the consent of the governed. It applies that great principle that has made the Democratic party great in the past—an adherence to the plain teachings of the Constitution.

Let me say in conclusion, that it is not absolutely necessary to have the work of this convention ratified by the people. We can go along under the old law, but it is necessary that every section, every article and every line of the new constitution shall be just to all races, to all classes and to every interest of the State.

Mr. WEATHERLY: Will the gentleman allow an interruption?

The PRESIDENT: Does the gentleman yield?

Mr. BANKS: Yes sir.

Mr. WEATHERLY: The gentleman has propounded the statement that there should be a method for placing the voting privilege of the citizens upon a high standard. He has in a general way indicated simply that it should be a high standard. Will the gentleman now specifically state what that standard should be, and whether or not it should go into effect at once?

Mr. BANKS: I recognize, Mr. President and gentlemen of the convention, that there are some difficulties in answering the question that has been propounded to me. In the first place, in answer to the question, I would say that I would not erect a high standard that was to go into effect at once, but I would have a temporary plan, but not such a one as provided in this grandfather clause.

Mr. WEATHERLY: Will the gentleman state specifically the temporary plan he would suggest?

Mr. BANKS: Yes, I will, with a great deal of pleasure. I offered an ordinance to this convention on the suffrage question, and it occurs to me it provided the temporary plan that would meet all the exigencies of the case. It provided for a graduated suffrage plan. It did not disfranchise a single man in Alabama who had any sort of right to the exercise of the franchise, but it did this: it did not give to the man who did not know how to read and how to write, and who had not the means of informing himself as to the great questions as issue in this State, the same power to exercise the ballot as was conferred upon the man who knows what he is doing.

Mr. WEATHERLY: I beg your pardon for the interruption. I have some recollection of your plan, but I do not know that I am able to state it exactly. Was that the one which gave to the man who could not——

The PRESIDENT: The time of the gentleman from Russell has expired.

Mr. WEATHERLY: I rise to a point of order. The chair recognized me to ask a question, and I was on the floor.

The PRESIDENT: The chair had recognized the gentleman from Jefferson to ask two questions, but not three. He was on the third question, and the time of the gentleman has expired.

Mr. WEATHERLY: I wanted to avail myself of the privilege, and I desire to ask an extension of the gentleman's time which my questions to some extent curtailed.

The PRESIDENT: The time of the gentleman had really expired before the first question which the gentleman propounded. The chair, by indulgence, extended the gentleman's time to give him an opportunity to conclude. The chair recognized the gentleman from Randolph before the gentleman from Jefferson entered his motion.

Mr. WEATHERLY: I would like to ask an extension of five minutes to enable the gentleman to conclude.

The PRESIDENT: Will the gentleman from Randolph yield five minutes to the gentleman from Russell?

Mr. Heflin (Randolph) yielded the time.

Mr. BANKS: I have no desire to detain the convention. I am very glad to answer the questions of the gentleman from Jefferson, and would like to give him the information. The plan provided for a system after the Australian ballot system. The ballot was to be arranged very much like the ballot is under our election law now, but there were to be two ballots. They were to be so printed as to be clearly distinguishable, one being on white paper, for instance, and the other to be on colored paper. An elector applying for a ballot from the managers of the election has this question propounded to him: "Are you able to prepare your own ballot by making a cross mark opposite the name of the candidates you wish to vote for?" If he answers he is not able to do so, then a colored ballot is to be given to him and he is to be allowed the privilege of securing any marker that he wished. He is not to be confined to the managers of the election—but may call in any man in whom he has confidence, to mark his ballot, and after the ballot is marked and handed to the managers of the election, it is to be counted as one-fourth of a ballot.

Mr. WEATHERLY: That was my recollection of it.

Mr. BANKS: A man coming to the election managers who can mark his own ballot would be given a white ballot, and after he had marked it without assistance and turned it over to the managers of the election, it is to be counted as a full ballot. This system was to be in operation for five or six years, and after the expiriation of that time, then every man coming into the State and every man arriving at his majority, should go before an examining board, to be provided for by the legislature, and certain questions would be propounded to him. One of those questions is what are the boundaries of your State; another question how many counties and where are they situated? Another question, how many departments are there in your State government? Another question, what are the functions of the officers who are to fill these departments? When these questions were all answered satisfactorily, then the man was to be given a certificate as an elector. which would entitle him to vote, and a registration list would be provided showing all persons who had complied with these requirements, and in this way Alabama was eventually to come into a better political condition.

Mr. HEFLIN (Randolph): Mr. President and gentlemen of the convention, we are today face to face with a problem that has agitated the minds of the people of the State of Alabama for many years and we should march out like men fearlessly in the discharge of our duty and solve that problem. It is not my purpose to consume much of the time of the convention. I do not propose to discuss this question from a constitutional standpoint, but I will address my few remarks to the Democratic platform and the section known as the grandfather clause. We are here today as servants of the people to discharge a solemn obligation. We are here to regulate the suffrage in Alabama and we are to deal with facts and pass on things as we find them. We are here for one purpose. But for the cause of suffrage and the regulation of the franchise, you nor I nor any of us would be in this convention hall today.

Mr. President, I believe, sir, that the white men should control the affairs of government in Alabama, and in every State of the Union. I believe, sir, that in the discharge of our duty we should go forth and do our whole duty after having considered it carefully, regardless of consequences. I am willing to treat the colored man, the negro race fairly, honestly and all right, and give him his rights, but I am one of those that believe he is incapable of self-government. I believe, sir, that the white man should rule. I believe that there are racial distinctions and prejudices implanted by God himself that cannot be wiped out by any human law.

I believe, gentlemen of the convention, that we should go further and discharge this duty as the servants of the people.

This is our country by virtue of inheritance, and it is right that we should rule it. We will rule it. Then if we are to rule it, how shall we rule it? We should purify the ballot. We should so regulate the franchise and suffrage that the white man will be in control. He is better capacitated to govern than the negro, as you all know.

Now, sir, there has been a great deal said about the report of the committee. I believe the majority report of the Committee on Suffrage is one of the best documents it has ever been my pleasure to read, and among all the good sections in that document, the grandfather clause is the best. (Applause.) It says that "all who have honorably served in the land or naval forces of the United States in the war of 1812, or in the war with Mexico, or in any war with the Indians, or in the civil war between the States, or in the war with Spain, or who honorably served in the land or naval forces of the Confederates States, or of the State of Alabama in the war between the States; or the lawful descendants of persons who honorably served in the land or naval forces of the United States in the war of the American revolution, or in the war of 1812, or in the war with Mexico, or in any war with the Indians, or in the civil war between the States, or in the land or naval forces of the Confederate States, or of the State of Alabama in the war between the States shall be entitled to vote.

Now, you heard the argument this morning that the grandfather clause was an unjust discrimination against the negro. I deny the allegation and demand the proof. It does not shut out the negro, but it is the saving clause and brings in every white man, and that is what we were sent here to do. We are tired of frauds; we are tired of ballot box stuffing; we are tired of buying negro votes, but the fraud will never cease until this vote is eliminated. Now, sir, I for one, when the ballot is purified, when the suffrage is so regulated that it is in the hands of white men only, would be in favor of putting in the penitentiary any man who would stuff a ballot box or buy or sell a vote.

Mr. President, the negro is here among us and I want him to have his civil rights, but I do not believe he is entitled to political rights. He is of an inferior race. He is not capacitated to govern and rule the white man, and I want to say to you now that the white man has ruled this country from the beginning of the world, and that we are going to continue to do it until we are all dead. (Loud laughter.) They say that the Fourteenth and Fifteenth Amendments conflict. I do not believe it. You have heard the able argument of the gentleman from Madison. He has investigated this question thoroughly.

He says by this provision that every white man can vote and there is no unjust discrimination against the negro. Some of the negroes are perhaps descendants, of some soldier and they are not shut out. We are here in the discharge of our duty, and if we go forth earnestly and honestly and courageously, we will surmount every obstacle, and when we have finished it, all will be well.

"One ship drives east and another drives west
By the self-same winds that blow.
It is the set of the sails, and not the gales,
That show us the way they go.

Like the winds of the sea are the ways of fate
As we voyage along through life.
It is the set of the soul that decides the goal
And not the calms nor the strife."

If we are here to discharge that duty it matters not what the obstacles may be, if we come here with a fixed determination to stand on the platform and to discharge that duty, white supremacy would be perpetuated forever in Alabama. (Applause.) If we are true representatives of the people who sent us here, we will settle this question of franchise for all time to come. Let us be men and come up to the high standard—come up to the expectation of the sovereign people who by their ballots sent us to this convention hall. The eyes of the people of the world are upon us today, they know we are wrestling with great problems, and there is great doubt as to what the result will be. Let us be true and stand by our people and pander to no sentiment, it matters not from what section it may come, but do our whole duty. If we will do that, we will perpetuate the supremacy of the white people of Alabama. The people of Alabama decided that they wanted a constitutional convention to regulate this question, one that had troubled and worried them so long. They demanded a constitutional convention, and by their votes they sent us here. Let us prove that we are not unworthy of the trust reposed in us. Yes, Mr. President,

"There is a day and there is an hour, a moment of time,
When the gods shall be willing to try us.
This test of our strength, of our purposes sublime
They cannot, they would not, deny us.
'Tis our right to demand the occasion, else how
Shall we prove by our courage undaunted
That we merit the crown that is placed on the brow
Of the man who is there when he's wanted.

The world is a stage and our lives are a play
And the part that is cast for us in it
May be very obscure, yet there comes that one day
When we speak its best lines for a minute
Then the dream of our lives
Through all these years of trials and tears
The soul like soft music is haunted
Comes true and we see through the tangle of years
The man who is there when he's wanted."

Let us discharge that duty as becomes citizens, patriots and statesmen, and prove to the people that we are the men who are here when we are wanted.

Mr. President, some objection has been raised to the grandfather clause. I say to you, gentlemen, that I believe that is the best clause in the entire report. They say it is an unjust discrimination. Why? If a negro served in any of these wars, or any descendants of those of that race who served in any of these wars, does it shut him out? Not at all.

The white man has ever fought the battles of his country, and it is right and proper that he should rule and govern, and in my humble judgment, he is going to rule and govern while times glides nimbly by.

Let every man with white skin have a pride in the good work, and disfranchise no white man on account of illiteracy or poverty, but say to him, you and your ancestors have fought the battle of the world; you have stood up for liberty in the years that have gone, in recognizing you for the brave deeds done on the field of battle, we grant you this privilege. Mr. President, our armies have been composed in the past largely of illiterate and poor men. Take the war between the States, and who rallied to the tune of Dixie when the tocsin of war was sounded? It was the yeomanry of the country. The illiterate and the poor man went forth to fight for and save their country, and Mr. President, the world has never seen such patriots nor braver men. In the language of the Great Hill of Georgia, I will say: "He who saves his country, saves all things, and all things saved do bless him, but he who lets his country die, lets all things die, and all things dying, curse him."

We should recognize these men for what they have done in the days that have gone. When the political firmament began to darken, and it was foreseen that war was inevitable, and when the liberty of the chivalric sons of the South was threatened, the Confederate soldier coming from every walk of life, the farmer, the merchant, the professional man, the rich and the poor, enlisted under the starry cross and went forward armed with the laws of our country and the constitution

of our fathers, they went forth with gun and battle-blade to meet fourfold their number in the death struggle of war. They believed that they were right, and we believe it still. A great majority of them were poor men, illiterate men, men who never owned a slave and who owned very little land. Shall we deny them in this, the morning of the twentieth century, the right to vote? I, for one, will never consent to the proposition. Who in this convention would deny them that privilege? They were good soldiers as you all know. They were patriots. They were not the Caesars or Napoleons of history, but were the Spartans of the South. We should teach the present generations to honor the memory of those who have gone across the river and to honor their descendants. The lives and characters of men, in a great degree, are shaped and moulded by the records of the past. Then, if this be true, we may expect the South to produce heroes and statesmen for ages to come. May the sons of the South study the lives and the characters of those heroes, and so reflect on their great achievements that it will enable them to build a stately craft that will sail the stormy sea of life. By adopting the grandfather clause, you honor the men who are living and the memory of those who sleep in their honored graves, and we say to those men who may be among us of that grand and glorious band of patriots in that conflict of arms though we were defeated, yet in sentiment, thank God

The South is solid yet
And those who died to win the cause
We never can forget,
And here's to those with empty sleeves,
And those without a scar
We wave on high the bonny blue flag
That bears a single star.

Mr. BYARS: I wish to ask the gentleman a question.

The PRESIDENT: Will the gentleman yield?

Mr. HEFLIN: Yes, sir, be right quick about it.

Mr. BYARS: In honoring the men who fought in the war, do you not honor the negro who left the South and went in the Union army?

Mr. HEFLIN: I think not. We are not able to pension our soldiers nor build costly monuments to their memory, but we should here today in convention assembled build a monument by our votes that will live through all the ages to come. Mr. President, we should not forget the wars of the past, and we will not, as a patriotic people. Those men who left home and its happy surroundings to go forth and battle for the love of country were deprived of education. Their property was

swept away by the ravages of war, many of them were killed on the battlefield. They had no means left to educate their children, and but for this one clause they would be disfranchised on account of poverty and illiteracy. I do not believe this convention will strike it out. We say to them, those who are gone over, that

"Cold in the grave their perished hearts may lie;
But that which warmed them once can never die."

The cause they espoused will ever be dear to us, and we will love their memory while we live. The principles for which they fought, bled and died on many battlefields cannot be wrapped in a shroud nor committed to the grave. When the history of the world is written by an unbiased historian, he will point to the Confederate soldier as the one who comes up to the requirements of the world's highest idea of a soldier, and for the sake of the glorious past to honor their descendants let us here today by our votes grant this privilege for the things done in the past. Let us say to the Confederate soldiers who may be living, and the soldiers of all these wars, and their descendants: "You stand today among those whose lives have been characterized by honorable and noble deeds. May you continue in the path of righteousness while you live and when you come to that river that marks the unknown shore, may you die with the sweet consciousness of having discharged your duty to your God, your country and your fellow man. Then the lamp of your life will go out as beautifully as fades the morning star away and your reward will be a home in Heaven.

Now, Mr. President, one word in regard to the pledges of the platform and I am done. I say to you that I expect to keep it in every word and sentence if I am the only man here who does. We said we would disfranchise no white man, no matter what his condition might be, unless he was convicted of infamous crime. Now, let us keep that pledge. Be true to the people, and they will be true to you. If we break our pledges made to the people who elected us. I tell you there will be 155 of the deadest statesmen in Alabama you ever heard of. If I forget the teachings of my youth and if I forget the hardships and privations of the women of the South and of our soldiers from 1861 to 1865, if I am untrue to my promises made to my people on the stump, if I go back on the promises made to my people, when I come to the judgment, may God forget me. In conclusion, I want to say that I believe every Democrat here will keep the pledge. If you do it, all will be well, but whether you do it or not, I say to the white people of Alabama, as Ruth said to Naomi, I will not leave you nor return from following after thee, for whither thou goest, I will go, where thou lodg

est, I will lodge, where thou diest, I will die, for the white people are my people and their God is my God.

Now, Mr. President, if we are to disfranchise that class of men, I want to make one request of this convention, after we have shut out all the illiterate and poverty stricken whites, I want an appropriation from the State of Alabama to build a monument to that band of men we are disfranchising, if this section is adopted, but which I know this convention will not do, but in the event it shall be done, we should build a
46 monument to that noble band of men who on account of misfortune failed to get an education, and who were illiterate and poor and inscribe on that monument the words,

"Freeze, freeze, oh bitter skies,
Thou dost not bite so nigh
As benefits forget.
Tho' thou the waters warp
Thy sting is not so sharp
As friends remembered not."

Now, let us move along in the good work which we have started, let us in this the morning of the twentieth century settle this question of the suffrage and perpetuate white supremacy for all time to come. If you do it this convention here now is as the morning but to the evening rose, of what the future will be, and Alabama will prosper as she has never prospered before, and with white supremacy perpetuated we will be a contented, happy and prosperous people, and the great cause of morality, temperance, industrial development, education and religion will prosper, and the grand old ship of state will sail on and on, and will finally land in the sunny harbor of peace and happiness and bask in the smiles on an approving God.

Mr. LOWE (Jefferson): That same old ship has been sailing on and on, without the intervention of this convention. As I understand, Mr. President, there is no proposition here as to the disfranchisement of white men. As I understand, this convention meets today in response to the call of the people of Alabama for fair elections. You may observe the difference between fair elections and elections made possible under the report of the majority of the committee. If there be a difference, Mr. President, I wash my hands of it. I stand here now, pleading for fair elections in Alabama, not for white supremacy. The time has not existed in the political life of the gentleman from Madison who spoke today, nor in mine, when the Democracy of Alabama need appeal for white supremacy in Alabama. White supremacy was established in 1874, and has never been threatened. This con-

vention comes not in response to the demand of the people of Alabama for white supremacy, as the gentleman from Madison indicates, but it comes in response to the demand of the people of Alabama for honest elections. How are you to make possible honest elections in Alabama? In the first place, I would appeal to this convention, and particularly to the committee that had the suffrage franchise under consideration, that those twenty-five men, the most distinguished in this convention, should not feel that they are bound by the spirit of comradeship to stand by the majority report of that committee, because, if they do, yielding to that spirit of comradeship they may do great harm to the State in the crucial period of her history. This is a solemn hour in Alabama. It is not worthy of a member of the Suffrage Committee that he should feel that he is bound by the report of the majority to lend his voice, his influence and his vote, in maintaining the report of that committee, if, after a full discussion, it should appear that that committee is in error. One distinguished member of this convention on yesterday—a man whom I love and for whose judgment I have great reverence—told me on the proposition I submitted hostile to the committee, I was right, and yet he had to support the committee. Let us do away with that, gentlemen. It is unworthy of you in this crucial hour. Let us consider these questions as they present themselves upon their merits.

What are we here for? Not to preserve white supremacy. White supremacy is secure in Alabama. We are here to promote fair elections. How? Are we to promote fair elections by departing from the very principle that was instilled into each one of you Democrats by your Democratic father? Is that the way that you will promote Democracy? Will you promote the interests of the people by departing from the pure instincts that were put into your minds by your Democratic fathers, who got their instincts and inspiriation from Jefferson in the early days of this republic? Why the gentleman from Madison says, you may transport the soldiers and their descendants, and you take away that element capable of self-government in Alabama. Might that not have been said of any depotism that ever existed upon this earth, whether it be a republic, whether it be an empire, or whether it be a pure despotism? Take Russia, transport from Russia the class capable of self-government, the class that maintain the throne, and would you not take away all the element in Russia capable of maintaining self-government? It was argumentum ad hominem. The gentleman from Madison made one of the most adroit, one of the most specious fallacious arguments it has ever been my pleasure to listen to, and when I put to him plainly the question, "If you did not intend to depart from the prin-

ciple of the old constitution and deprive of the right of suffrage those entitled to it under that constitution and prefer others not entitled to preference under the old constitution," he said he would answer, and he never did.

Gentlemen, can we for expediency, when we are safe, when white supremacy is safe in Alabama, absolutely safe, and there never will come a time when there will be danger of negro domination in Alabama, adopt the report of the majority of the committee? Will you then for an experiment, when the people cry for bread give them a stone? I do not confine my objection to the grandfather clause, but that is thoroughly obnoxious to me. Take the grandfather clause, however, with the other, and in a republic, where all white men are created equal, a man because his grandfather served in the army, would be entitled to a privilege that another white man would not be entitled to. Is that fair and in accord with Democratic doctrine? I know but by one light by which my feet should be guided. It is not only the light of experience, but the light of principle. The right of a man to vote in Alabama should be plain. It should be so plain the way-farer, though a fool, need not err therein. It should be so plain that he who runs should read. Will you substitute for our present magnificent system of fraud, long tried and well established, a commission established from a central office in Montgomery? You tell me that it means white supremacy! They may have intended it so, and I impugn the motives of no man. I know the committee was composed of men the peers of any man in Alabama. I know that they came here with the same impulse that I came, I know that they are all as honest men—most of them as honest as I am. I know that very few of them desire to acquire political power by the establishment of a permanent Registration Board in Montgomery, but it is significant, gentlemen of the convention, that not one of them who has spoken has defended the propositions they have submitted to you—not one of them. They have spoken in generalities. They have spoken of the greatness of our race. That I believe in. They have spoken of the magnificent development of our State. They have told us about reconstruction, but they have been very silent as to their Board of Registration.

Mr. SANFORD: It has not been reached yet.

Mr. LOWE: It was all open, under the ruling of the chair for them to reach it. It is an arbitrary selection, and it is strange to say they selected the only two State officers that have to stand for re-election. Both of them are my personal friends, and both of them I will ardently support for re-election. Gentlemen, they denied us the right to speak in caucus, behind closed doors, on this question, after eighty-six members of the

caucus had invited the call of the caucus. If I say now what may seem to be imprudent I hope I will be entitled to indulgence upon that score. They propose, in the first place, to fasten upon the people what? The first qualification I am thoroughly in accord with. "All who have honorably served in the land or naval forces of the United States in the war of 1812 or in the war with Mexico or in any way with the Indians or in the civil war between the States or in the war with Spain, or who honorably served in the land or naval forces of the Confederate States or of the State of Alabama in the war between the States." I am thoroughly in favor of that. Whenever a citizen of Alabama has bared his breast to the bullets of the enemy, I say he is entitled to his place and he is entitled to the rights of citizenship without denial and without limitation whatever. The next section, "The lawful descendants of persons who honorably served in the land or naval forces of the United States in the war of the American revolution or in the war of 1812." Gentlemen, for what did men serve in the war of the American revolution? It was to overturn the law of entail. It was to destroy forever the law of succession in rights, privileges or franchises of their descendants, and shall Alabama in this late day, return to the old doctrine for which the very men whose descendants you expect to pick out, forfeited their lives to defeat. If, to do a great right, you do a little wrong it will be an example whereby, in after days, many evils may rush in to afflict the State. Are you going to depart from the principles that those men fought for, the men who did the fighting, whose descendants you seek to crystalize into a special class? Are you going to depart from the principles that inspired them, and for what? Not to preserve white supremacy in Alabama. White supremacy is secure enough in Alabama. For what purpose then are you going to do it? Now let me tell you what I believe. I believe that a descendant of a soldier of the Revolution —I believe that the son of the soldier in the war for the dissolution of the Union, who has so far forgotten the principles that inspired his father, that he is not able to qualify under the rule you prescribe in Alabama for voting, is not worthy to vote. Would you believe that your son, any one of you, would ask special privileges in the matter of qualification for voting as against the son of your slave? Would you be gratified to know that your son would ask the State of Alabama to pass a law that discriminated in his favor as against the son of a slave when it came to a matter of the right to vote? That is what you say here.

Gentlemen, the whole scheme is not in favor of fair elections. I will not question the motive of those who prepared it, but I declare to you that the scheme, as presented by the ma-

jority of this committee, permits the most infamous frauds that were ever planned in Alabama. They provide for a Committee on Registration. They provide means for limiting the membership of the Registration Board. They will register them for this year, and every negro that registers may be over forty-five years of age, and will be voting forty-five years hence. I do not say they will do it, or that they intend to, but I say that this scheme permits them to do it. I say there are counties in Alabama where it will be impossible to do it and I say there are counties in Alabama where it will be entirely practicable, and the chairman of the committee is not ill-advised as to some of the counties in which it would be practicable to do it. Then what do we come to next? "All persons of good character and who understand the duties and obligations of citizenship under a republican form of government." A commission of three to serve at two dollars per day to pass upon a person's good character. Men who are willing to serve at two dollars a day are to determine whether these men are persons of good character, and understand the duties and obligations of citizenship under the republican form of government, and they are to be appointed by a Central Commission at Montgomery. It is an abomination. It is offered, when the people cry for bread, and you give them a stone, and we propose to perpetrate upon them the miseries under with they have suffered, when they have cried for fair elections.

I am not discussing the theories of government, or the philosophy of government, but I am discussing the practical proposition that you gentlemen of the committee have submitted, and it is an outrage that you should offer it to the free white people of Alabama. I say that no commission should ever pass upon my right to vote. I say that the law, as written here should determine whether I have a right to vote or not. I say you should write the law plain and simple, as to who has the right to vote and not give me a commission in my county and another commission in another county to establish different standards of good character. What is good character? It is a relative term. A man who has good character in Alabama would not have good character in Guam. A man who has good character in China would possibly not enjoy a good character in New England. Good character is a relative term, and it will be decided by your commission in each county, and will be decided according to what I leave it to you politicians. I do not know. They tell me that 30 per cent. of the negroes will be registered. You say you cannot exclude the negroes by any law. They tell me that 30 per cent. of the negroes will be registered under this provision. I think so, and perhaps more, and what does that result in? It results in lulling the white people into security, and divisions and the power that

has the money will come into your elections, and conclude the result of them. Did they not reject my amendment on yesterday, when I suggested that the poll tax should be paid in the year in which it was due. Didn't they reject that, leaving it payable in February of the year of the election, and why? Gentlemen, I am dealing with this now from a practical standpoint, impugning the motives of no man.

I believe no man could sit in this convention who could prefer his own interests above the interests of the State. I believe every man is just as sincere and honest as I am in the consideration of this question, but some of you gentlemen have been attending to your private affairs while others have been attending to practical politics and I am speaking to you of the practical politics of this proposition. I say to you that it turns us over absolutely, horse, foot and dragoons to the counties that are willing to indulge in fraud.

Now, what do I believe? I believe a man should not be tested by what his grandfather did, but his right to participate in the government of the State of Alabama should be based on what he is willing to do. Now the substitute that I shall offer later for this proposition, will simply provide that every man white or black, who is willing to make his contribution to the public school fund each year as it matures, shall be entitled to vote. I was not entirely in accord with the remarks of the distinguished gentleman from Montgomery, the ex-Governor, this morning. I have not been entirely in accord with
47 the argument of any man who has preceded me, but I have totally failed to find in the remarks of the gentleman who spoke for the majority report a defense of the proposition which comes from the committee. Now, gentlemen, I know that in Mississippi and Louisiana they have adopted a similar constitution. They have been driven to worse extremes, perhaps, then we ever were, but I notice that whenever a man in his private conduct, in the discharge of his private business, or in public affairs, departs from the path that he had mapped out for himself, the beaten path, and goes into the wilderness of experiment, the sooner or later comes upon the rock, or the quagmire. Now, my substitute that will be offered when this matter is disposed of will provide that any citizen of Alabama who, in the first three months of each year, is willing to make his contribution to the public school fund, shall be entitled to vote. That will be perfectly fair, discriminating against none. It will stand by the platform; it will be in entire accord with the platform, and what man in Alabama can object to it? It will be a three dollar contribution until forty-five years old, and one dollar and a half afterwards. What men in Alabama entitled to vote cannot make his contribution of three dollars until he is forty-five years old, and a

dollar and a half afterwards? There will be no remedy for the enforcement of the collection of that poll tax. It will increase the contribution to your public school fund largely, and your public school funds from poll tax will be nearly doubled.

Mr. WEATHERLY (Jefferson): Will the gentleman state why he doubles the amount of the poll tax, and provides that it shall not be collectible by law?

Mr. LOWE: I will. I think it should not be collectible by law because, in the first place, if you make it collectible by law, you will enable every man from whom you collect to vote. I think that every man entitled to vote is willing to make the contribution of three dollars a year until forty-five years old to the public school funds, and the contribution of one dollar and a half after that time. It is not a burden on anybody. It is not a property tax! Why, you all know old Ben Franklin's answer to the proposition that came out in Poor Richard's Almanac? That is involved in this proposition here. Ben Franklin was discussing the proposition. He was opposed to the property qualification, and gave an illustration in his almanac. There was a fellow that had a jackass that was worth one hundred dollars, and under the provision of the law he was entitled to vote. The next year the jackass died before the election came off, and the owner was not entitled to vote, and the question arose as to whether it was the owner of the jackass or the jackass that was voting. Gentlemen, it is infamous that at this stage of Democratic government in Alabama we should propose a property qualification for voting. It is unjust. We should propose an educational qualification for voting. It is unfair and it is indirect, because the gentlemen who framed this—

Mr. WALKER: I will ask the gentleman from Jefferson if under his plan, it would be the three dollars voting or the man? (Applause.)

Mr. LOWE: I might fairly treat the gentleman as he did me this morning—not answer him, but I won't do that. I will say to the gentleman from Madison that I think any man who has not a sufficient amount of patriotic instinct to contribute less than one cent a day to the maintenance of the public schools is not fit to vote in Alabama. That is a more direct answer than the gentleman gave me this morning.

Now, Mr. President, these provisions that I have discussed, are abhorent to every principle for which Democracy has stood since it began to follow Jefferson. I say that Jefferson abhorred the property qualification, and educational qualification, but they go further, and have given us a commission appointed by whom? A Board of Registrars that shall pass upon the good character of a man who applies to vote. They have ap-

pealed to Democratic inspiration, to Democratic memories, and it should make the bones of the oldest Democrat rattle in his grave. Are we to allow the present condition that does not threaten us, to drive us from Democratic principles to which we have adhered since before the foundation of this government? Why, our fathers came here with those principles instilled into them. Are we to allow the fear of negro domination to drive those principles out of us? I would rather take my chances under the old law. I would rather take my chances in the field or anywhere. I am not willing to depart from those principles, or prejudices, if you please, that I have inherited, because of the shadow of negro domination. It was no such spirit that called you here. The people of Alabama are not afraid of negro domination. I believe that the standard ought to be the man who is willing to bear the burdens of the government today. I believe that a poll tax properly administered, a contribution to the public schools, as defined in my substitute, collectible not as the distinguished chairman of this committee insists, on February before the election, but collectible each year within the first three months of the year, as it falls due. It will be an absolute guarantee that those who are interested in maintenance of good government in Alabama alone shall vote in Alabama. I was astonished when the distinguished chairman, after contending, as the stenographic report shows he did, that the report meant it should be paid in each year, when I showed him it did not, as the stenographic report in this morning paper shows, he backed out of his original proposition. Now I say that the man that is willing to bear the burdens of government, and to do that within the first three months of each year, is a worthy citizen to vote. How do they propose to eliminate the negro vote? They have given us no suggestions. The majority of the committee have given you no suggestions as to how they are going to eliminate the negro vote. They do not intend—I won't say they do not intend—but their proposition does not contemplate the elimination of the negro vote.

The PRESIDENT: The time of the gentleman from Jefferson has expired.

Mr. WEATHERLY: I move that the time of the gentleman be extended fifteen minutes.

Mr. ROGERS (Sumter): I move that the time be extended until the hour of adjournment.

The motion was carried.

Mr. LOWE: Gentlemen of the convention, I thank you, but I do not need that long, I think. What I have searched this report in vain for, what I have listened to speakers who have represented the majority on this floor in vain for, is to show

ne, to show us, to show the people, how the great question of fair elections is to be met. You can have fair elections, gentlemen of the convention, when every man who is entitled to vote shall be required before the first of March of each year to come up to the Tax Collector's office and pay his poll tax, his contribution to the public fund of three dollars. But if you appoint a Committee on Registration, a gentleman, with power to appoint local representation in sixty-six counties in Alabama. I tell you, you are building a machine and you will regret the day, if not the day you were born, you will regret the day you were sent to this convention. To be honest is always to be plain and simple. The man that intends to deal honest with you can deal plainly with you. The man that intends to be dishonest shields his meaning behind a veneering of words. What is the report of this committee? What does it mean? Does any man understand it? Does any one here thoroughly grasp the full scope of it? Why, Mr. President, take the names of the officers of the State that compose the committee in Montgomery. How did they take them? They did not take the Governor, Secretary of State, Attorney General, in the order they come. They did not even take the men retiring from office next time, but they took the names of the men who are to be candidates for office next time. The only three men who will be candidates next time they took to constitute the Central Board. That is not reflecting upon those men at all, each one of them I expect to vote for to succeed himself, but I say it was an arbitrary arrangement, and I say it provides for a system that we have never known before, and will give us a central system emanating from Montgomery. If that Central Board are State officers seeking re-election, that gives them the appointment of something like two hundred Registrars in Alabama, and with those two hundred voters have the right to pass upon the qualifications of the voters of Alabama. Gentlemen if you want to be honest we came here to make an honest election law, let us make plain and simple and define the qualifications of a voter. Then if one who is not qualified seeks to vote, deal with him in the criminal courts of Alabama. I do not want any number of men in Alabama appointed by a Central Commission in Montgomery to determine my right to vote. The gentleman from Madison this morning referred in the early session to the fact that all these people, the veterans and sons of veterans had a right to vote already. Nobody is proposing to take away their right to vote, but will the sons of soldiers of the Confederacy ask that in competition with him, the son of a slave should be handicapped by such a provision? I wish it was so that we could say that none but white men could vote in this republic. It is not so, so we cannot say that, but we can say only

those shall vote who are willing to bear the burdens of a fair, free and honest government. Mr. President and gentlemen of the convention, I have spoken longer than I intended, and I thank you for the consideration you have extended me.

Mr. PROCTOR: I move that we now adjourn.

The convention adjourned until 9:30 tomorrow morning.

Official Report of the Proceedings of the Constitutional Convention of Alabama.

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Fifty-Fourth Day.

MONTGOMERY, ALA., THURSDAY, *July* 25, 1901.

The convention met pursuant to adjournment, was called to order by the president, and opened with prayer.

The PRESIDENT: The question is upon the adoption of the minority report to Section 4, pending amendment by Mr. Sanford. Is the convention ready for the question?

Mr. WILLIAMS (Marengo): Mr. President and delegates, if I am not out of order I would like to submit a few remarks on this question and possibly the only question on which there has been leaders, and in deference to this leadership if I am out of order, if some one else has not a set speech for this particular time. I will submit my remarks now. Of those who have spoken on this question heretofore, I do not think any one of them can trace their birth back to a time since what is called that direful and sorrowful time of the South, "the surrender." I think it is time, Mr. President, that one of the younger generation, that one of those who has nursed the breast, not of a slave, but of one who had been a slave, since the war, that we should make known to this country the position of the younger men of the South on the question of suffrage, and of the negro. With all due deference, and with the greatest regard and utmost respect to those of the older delegates who have spoken on this serious question, I desire to say that we of the younger generation have more at stake than these older men have—more to learn and live for, than these older men who will soon pass over the river. The older ones have not the fear of the future generation before them, except that they would plant the seed which may germinate and grow into a living lasting fruit, that they do for us and our and their future generations, something for good or for bad. I concede that these men are now attempting, wisely contending among themselves, for the future good or bad, not only of the individual members, but of the collective members of this, a sovereign State, and the concern of the great hereafter for the young citizenship that these older men cannot

help, but come here and do us honor. It is not without grave and serious doubts that I am persuaded that some short message should be delivered to this convention by one of these younger men and one who has never known slavery. I mean slavery as it existed prior to the war, because so far as I am concerned, and we of the younger generation, we have known but one slavery, and that—slaves to the negro vote, and when I say this I mean it in its fullest and deepest sense, for if there ever was a set of people who have been slaves, it has been our southern people—slaves to the votes of a degraded race; slaves to the votes of an unprogressive race; slaves to the slaves of our own fathers, the hardest task-masters that ever drew the blood of life from a quivering nation. Not slaves in a physical sense indeed, but even worse, for while we of the Caucasian race are held responsible for the policy and politics of this country, yet those of the north, not understanding that they have thrown upon us a vote—a vote that is harder to bear than the lash of the cruel task-masters, they hold us to account for the progress and the rectitude of this, our southern country. When you, Mr. President and delegates, know that you nor none of us are responsible for this direful state of affairs, nor have we been for a generation. We now come to say to our people that we favor to its fullest extent the grandaddy clause of the majority report, we do it because we believe earnestly and truly that which future generations will see, that it is to the very best interest and the best policy of this country. What has built up the solid South till it stands like a stone wall? What has made us here of the South but of one mind and one idea, why is it that we are not allowed to go to the ballot box and there deposit our ballots, as we believe in justice and in truth is for the best interest of the broadest policy of this country? It is simply because of the fact that we have over us task-masters to control the votes of this country, had he but the brains to control it with. It is to get rid of this particular class of people that we are now contending for and are met here in this convention. I say to the older men now who are opposing the majority report—stop and think what you would thrust upon the future of the South. I say to the younger men who possibly are not of the generation of myself, but still young, to stop, pause and think what you would fasten upon us, until another constitutional convention can meet and undo what you would do here today. Imagine a race subservient for hundreds of years to a superior race, turned loose upon us by force and by virtue of the bayonet, and give into the hands of that race the right to ballot upon the future destines of this country, and which has become so strong that in thirty-six years thereafter, we cannot stand up and take away that right without being abused, by not only

those of the North, but by men of the South. This is a serious matter with us, I tell you, and with honesty and truthfulness I believe we do no wrong when we take back our birth right and when we say to the negro as a race, you shall not cast your ballot against the policies of your country. The majority of the people at home and for whom I speak, believe in the absolute disfranchisement of the negro as a negro. We do not believe in disfranchising a single white vote. We do not say as some of the distinguished gentlemen on this floor have said that a negro at times and certain negroes are as good at times or as good as certain white people. This discussion must necessarily be in public because the Democratic party refused to have it behind closed doors. I say here without fear of contradiction that if there is any good in the negro race—such as elevates a nation, or elevates his race—I say that good comes from the Caucasian blood that runs in his veins. If, per chance, there is one—even ten—negroes who have attained eminence and superiority in this country, and over his race, who has not one drop of Caucasian or Anglo-Saxon blood in his veins, then I say to you the fact that that African has attained eminence, but goes to prove the rule. I have above laid down, that it is the learning and blood of the white man that flows in the veins of negroes, except, possibly an exception, that enables them to become renowned among their own people, or among nations or other races. I do not believe with some learned gentlemen who have discussed this matter, that because the negro bore the gun during the civil war and was subservient to the will of his master, that he, in any sense of the word is as good as the worst—I don't mean as a criminal—but I mean as the least, poorest, lowest-down white man that I ever knew. I do not believe that the negro can attain that eminence that will entitle him in any sense to mingle politically or socially on an equality with any white man who was ever born into this great nation. Neither the majority of my people nor myself, believe it, and I come from the black belt, I come from that country which was singled out on the floor of this convention yesterday by one of the delegates to this convention who was placed in the high position that he now holds by virtue of the black belt. I came from a country that has ever been true to the white men of Alabama and so help them. God, they will ever be true in the hereafter to the white men. There have been insinuations passed on the floor of this house against certain distinguished men of this convention, and more particularly against the chairman of this Suffrage Committee, that great thoughts were had far reaching and deep seated, that the mind of the mighty Caesar was at work, while the balance of this convention slept, that he conceived, forged the thought contained in that suffrage report, forsooth to

carry out the intimated low down meanness of our black belt country. I defy that, and I defy the man that says such words upon this floor. I say that the purest motives that have ever been given to men have actuated the chairman of this committee and the men of the black belt who helped to frame, and who did frame this majority of this suffrage report. How can men get up on the floor of this convention and say that there is any hidden meanness in this report, how can they get on this floor and say that the white men would, by some act of his, or that this convention lead on by this committee by some act of theirs, defy the white men of the State of Alabama. I say to you today that if that suffrage report cuts down one negro vote, that the white man of Alabama has just that one negro vote less to contend with than he has at the present time. The absurdity of the argument presented itself to me when offered, that could it be thought there was any hidden reason why certain negroes should be allowed to vote if the black belt registered and voted them to the best interest of the State even if it be put that way. White men have nothing to fear from the black belt. When one single vote is cut off from that black mass of voters, they who have arrayed themselves against the white man every year that there has been an election, can you argue that this majority report has a hidden meaning and was framed in viciousness, that it will hurt the ignorant white man in this State. Take it up and go through its provisions one after another and you will see that there is nothing there but that which the white men of Alabama pledged themselves to do, and only that which the white Democrats of Alabama pledged themselves to do, when they were making his race for the constitutional convention. We said then, that we would not disfranchise a single white man. We should not go back upon the pledges of the party to the people. I am reminded of the blind man in the Bible who was made to see, and when asked how he saw, how it was done, said, I know not how it was done, but one fact I do know is that whereas I was blind now I see. If this thing is bad, gentlemen of the convention, I know not whether it be good or whether it be bad, but the Democratic party pledged itself to this plank in the platform and whereas, they did that, I am for it. I believe we should put ourselves in the position, so that when we go out to secure ratification of this constitution, all we will have to do is to set up on the stump and kindly and pleasantly begin every speech by saying, men of Alabama, white men of Alabama, we have carried out every pledge that we made you. Can you disfranchise a single white man and carry out that pledge? Can you disfranchise the mining vote of Jefferson County, that has not yet registered its citizenship, and say that you have carried out the pledges to your party. Let us be able to go forth before

our people in the purity of our actions, and do as we said we would do, disfranchise every negro vote that we could under the Constitution of the United States, and leave the franchise to every white man so he be of good moral character. I submit that this plank as laid down in this majority report contains the pledges absolutely and unconditionally that we made to the men of our race. How does it establish a permanent, hereditary, governing class? Would to God that it did if it puts white men in permanent supremacy in Alabama, that they may vote as they please, then I am not ready to go back on what has been called on the floor of this convention that hereditarly clause, or war of 1812 clause. I am ready to say, let us have the inheritance, and let us send it down to our children unspotted and as pure as the Causasian blood that we would have alone to cast our ballots and govern our people. If this is the heritage that we are after and we are getting it by adapting this particular section, I say then let us have it. Is it in keeping with the dignity of a progressive, just and enlightened State? I do not see how it is not in keeping. How can you have a progressive and enlightened State unless the white men rule it? I submit that question, and proceed further. It does not insult the white men of Alabama, nor do you put the slave of your father above him when you require the slave to have a qualification that the white man does not. Gentlemen of the convention, we do not place that difference or that distinction on the white man. God Almighty Himself put the seal on the white man, and He put it upon the negro. He has made the distinction and we only ask you to stand by your own people. I was more fortunate when I was born in that my father had a competency after the direful and dreadful civil war. I know young men, who at home were the play fellows of my elder brothers and of myself whose fathers before the war were wealthy men, these young men today can scarcely write their names, and after it is written for them can scarcely read it though printed in the boldest of letters. Would you disfranchise those men or the children of those men who were denied opportunities, because of the scourges of war, to get an education? Does not this section guarantee the right to vote to these men, grown to manhood, and now having children of their own, and who have been so unfortunate as not to have been able to attend school, and are you not willing to guarantee the ballot to those who will not be able to give to their children's children as much education as will be necessary to compete with the negro child whose blood has possibly mingled with the Caucasian? It is an absurdity to me that any man who has seriously watched the current of events through their boyhood and young manhood and seen the changed conditions sweep over this country,

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that they cannot realize and see that our country demands the infranchisement of every man with pure white blood in his veins in this State. They say that this device is invalid. I shall not discuss that proposition now, because it is a proposition which has been tried and has not been found wanting, and I think delegates to this convention, when you get through that you will see when this matter is tested that it is not found wanting in the State of Alabama. It has been said that a race war is possibly imminent in Alabama. I don't believe it, but for the sake of argument I will admit it, and should a race war come, will not delegates to this convention want the lowliest white man that plows the cotton row in South Alabama or the corn row in North Alabama, who works and delves in the mines, whether they are able to read or write, will you not want him to shoulder the musket and go out against the black? I say, put the test; I say if the test is white man against negro, who would you want to place against the black man? And we ask you in this majority report to place the white man, be he ever so lowly, against the negro, be he ever so high and exalted among his own people. We are tired—

The PRESIDENT: The time of the gentleman has expired.

Mr. WILLIAMS: And I am tired also.

Mr. HEFLIN (Chambers): Mr. President and gentlemen of the convention—I have enjoyed the earnestness of the gentlemen who favor the minority report and I have the utmost respect for the ability and convictions of those gentlemen who have followed in the lead of the distinguished gentleman from Montgomery. This is a serious question that confronts us. This is a great battle that we are fighting and a great problem that we are to solve. The historians tell us that when Spain had pressed her conquest to the limits of the then unknown world, she stamped the pillow of Hercules upon her coin with a scroll around it, bearing the legend, "Ne plus ultra," no more beyond, but one day a bold and adventurous spirit sailed out far beyond and discovered a new world of transcendent beauty and riches, and the proud nation convinced of her mistake, cut the negative from her coin and left the words "plus ultra," more beyond. Since man tasted the supernatural joys of Paradise and lost that high estate, he has been wandering in search of an ideal country. It was this love of an ideal country that painted the Arcadia in the brain of the French philosopher; it was this same love of an ideal country, Mr. President, that inspired the pen of Sir Thomas Moore to write his far-famed Utopia; it was this same love that thundered in the eloquence of Cicero and thrilled the heart of Plato. It was this same love that inspired the men of the imperial Caesar to follow him beyond the Rubicon. It

was this same love that fought the decisive battle of Hastings. It was this same love that carried the torch of revolution through the iron storms of war, seeking liberty; it was this same love, Mr. President, that glowed on the canvass before the eye of Columbus and impelled him to brave dangers until he touched the shores of an ideal country to be, and uttered pean of praise and song, the hymn of hope fulfilled. It was the same love that burned in the temple of the Pilgrim Fathers and kindled the fires of revolution, which no power on earth could extinguish until the Goddess of Liberty waived her sceptre over the land of the free and the home of the brave. It was here, Mr. President, that the Caucasian hewed out a republic, below whose temples and institutions will break harmless the billows of time and it was here that the representatives of the proudest race that ever lived established a government that will never fall. It was here that the white man drove the red man from his home in the forest, and took possession of this land as we find in the Bible that God gave His servants command, to go up and possess the land. I verily believe he reserved America, this section of the Western world, for the permanent settlement of the Caucasian race, and here by mutual consent, they came together and by mutual consent established a government for the good of all the people. In the course of time, gentlemen of the convention the slaves were hunted out in Africa. The negro wandering through the woods like a beast of the field, and brought here to do what? Put upon the block and sold to the highest bidder, to be the servant of his superior, the white man in this country. I believe as truly as I believe that I am standing here, that God Almighty intended the negro to be the servant of the white man. I believe that the Scripture will sustain my position on that question. I know he is inferior to the white man and I believe that delegates of this convention believe him to be. He knows it himself. After remaining here the servant of the white man for years and years, finally upon a question of State rights, and not on the question of slavery, the greatest civil conflict in human history was enacted in our country. Great men were arrayed upon opposing sides, and for four years the undaunted sons of the South illustrated to the world the bravest spirit that has ever throbbed beneath God Almighty's sun. Fighting for home rule, and fighting for self-government and what occurred. They issued a proclamation, the President of the United States, freeing the slaves of the South, taking from them that which they had bought and paid for with their own money, snatching from them this property that they had bought in the market, and which belonged to them, and that they of right, could not take from them by the stroke of a pen as they did. What else, Mr.

President? This was a military blow at the labor system of the South. Later on they said to this mass of ignorant slaves, untutored and uncultured, you may walk side by side with your master of yesterday and cast your vote and kill his will. Unfit for the responsibilities of government they were turned loose upon the people of the South and marched side by side with the chivalric sons of our country, up to the ark of the covenant, the ballot box in our land, and voted like the high spirited, free-born Americans of our land, like the men who fought the batties of this country, the men who bought it with their blood, and who with their arms bravely and undauntedly secured American independence.

I take the position, Mr. President, against the gentlemen of the minority of the committee, that the negro never had the right to vote. I take the position that the exercise of the suffrage was an inherent right with the white man and a privilege with the negro, granted by the white man. There is a distinction. We have it in our power to give him the privilege to vote if we see fit to do so, but as to the white man, it is his birthright in this country. The gentlemen of the minority make the mistake in reasoning from the standpoint of equality. It is true under the law of this State the negro must be equal with you in the exercise of the ballot, but we know as a matter of fact that he is not equal to us. God Almighty did not make him so, and the work of the artists of the minority report cannot improve on His handiwork. (Applause.) Why, Mr. President, the striking from him of the title slave, and placing in his hand the ballot was the most diabolical piece of tyranny ever visited upon a proud though broken people. I believe, sir, that the tour of the President of the United States through the South has opened the eyes of the northern country on this proposition, and that they see today that they made a mistake when they gave the negro the right to vote. Mr. Lincoln said upon one occasion, "I do not favor now and I never have favored giving the negro the franchise." Mr. President, it is a fact that the majority of the northern States, outside of the New England States, voted against giving the negro the right to vote. Francis Preston Blair, in the United States Senate in 1871, said: "Missouri gave 31,000 majority against it, Kansas 15,000, Ohio 50,000, Michigan 34,000, New York, Connecticut and New Jersey, and all the northern States went against it excepting the New England States." He goes on further to say, Mr. President, that the representatives in the legislature and Senators and the Congressmen violated the will of the people and carried through the Fourteenth and Fifteenth Amendments. We see how it was brought about, was it their desire to elevate the negro? Not at all. As I said before, the striking off the

shackles from his feet was a blow at the labor system of the South, and giving him the right to vote was a blow at the proud spirit of the men who had by the very force of their heroism killed more of the men in their army than we had men in all the armies of the Confederacy. Humiliated, stricken down, the men who wore the gray were the bravest that ever drew a battle blade. The bravest that ever crossed the field of carnage, or shed blood in the cause of right, and when time is over, when history shall be finally made up, I believe the historian will record the fact that the Confederate soldier was the bravest that ever lived in the annals of time, and yet, Mr. President, the gentlemen who favor the minority report tell us that it will humiliate a descendant of illustrious men to walk up to the ballot box and say I am a son of a Confederate soldier. Humiliate him. If it humiliates him he is not worthy to vote. He is not worthy to have any voice in any government, on any question. The proudest title of the Roman was to smite himself upon the breast and say, I am a Roman soldier. The proudest title that the young men of this day can wear is to walk out and say I am the son of a Confederate soldier. Humiliate him, poor timid fellew, who has got to walk up to the ballot box and say I am a Confederate soldier's son. But they advance the argument that you want to give him an advantage over the negro in the race. No, that is not it, gentlemen. The proposition that I am fighting is the one by which they undertake to put him upon the same level, and for him to march up side by side in the same column with the white man. If you want to make a foot race, let us make it with the descendants of our own tribe.

Mr. President, the only instance in history where a race which you might say was physically prohibited from amalgamating or assimilating with another race, was given equal rights and privileges by the law with that other race in the same community. You can't trace history back to a single recorded instance where two such opposite races were ever brought together under the same laws affecting both alike. There is nowhere a single recorded instance where Africans and Caucasian races impossible of mutual absorption or amalgamation were accorded the same political, legal and social rights under the same government.

The gentlemen urge here that we say where two races are thrown together the stronger will dominate. That is true. It is true, and the white man is going to dominate here.

Mr. President, we have told the people of Alabama for years that we wanted to disfranchise the negro. He has been about the ballot box like sheep in the market for sale and traffic to the highest bidder. The white people who love the ballot,

who love the sanctity of their fireside, who love the government of their homes and of their States, want to exercise that great weapon in the defense of things that are right and sacred. We want to take it out of the hands of men whom you can purchase for twenty-five cents and a drink of whisky. We want the white men who once voted in this State and controlled it to vote again. We want to see that old condition restored. Upon that theory we took the stump in Alabama, having pledged ourselves to the white people of Alabama, upon the platform that we would not disfranchise a single white man, if you trust us to frame an organic law for Alabama, but it is our purpose, it is our intention, and here is our registered vow to disfranchise every negro in the State and not a single white man. Why didn't gentlemen speak their views on this question before the sovereign authority of the State that sent them here? Why did they wait until they had gone beyond the border line. Why did they wait until after they had securely enthroned themselves in the confidence of the voting masses of Alabama. But we are here confronted with this minority report. There is a division amongst us. All representatives of the same party, men who were elected upon that same platform, and some gentlemen tell us that we ought not to violate our oath to support the Constitution of the United States, but I say gentlemen, let us not violate our pledges to the people who sent us here.

Mr. President, it required more than a thousand years of education to prepare the thoughtful Saxon and quickwitted Celt for the duties and responsibilities of American sovereignty, and yet the negro by a scratch of a pen and a partisan vote was prepared for it in the twinkling of an eye, turned loose as an enraged mob upon the proud people of Alabama who had made its name the glorious thing it is. Before the white man saw that his right was infringed upon, when he saw the ballot appear in the hands of his own blood, he loved and respected it above any power in the civil laws under God Almighty's sun. Then it was kept pure. The negro did not vote. Nobody voted but the white man, and it reminds me of that story of the Vestal Virgins, and the temple there in Rome, where the Vestal Virgins kept the sacred fires burning forever, and the Roman consuls would gather there and offer up their sacrifices and their prayers before entering upon the discharge of their duties to their country, but when the sacred fires went out, and profane fires burned upon the hearth stone, they felt that virtue had gone out of the temple, and they no longer worshiped there, and made their offerings. They lost respect largely for the sacred temple, and Mr. President, when the white people of Alabama marched out on the occasions fixed by law to settle the great questions at the ballot box, and walked up elbow to elbow with their own brethren, it

may be they were arrayed on opposing sides, they deposited their ballots, the result was counted out and they shook hands and all was well. Nobody but the proud Caucasian cast his vote. Nobody but him dared to walk upon the sacred soil about the ballot box in that day and time, but when slavery was no more, when the slave was given the ballot, when these great hordes marched to the ballot box, the proud spirit of the white man felt to a large extent that the virtue of the ballot had been removed, had flown and he did not respect it as he did in the glad days that were gone. We want to see that glad time restored in Alabama, and it is going to be restored. The people hope that this convention will carry out the pledges that were made to the people, and unles they do, the people will pass final judgment upon our work here, and will not endorse our action. They tell us what the Supreme Court may say and do. I want to remind gentlemen what the supreme authority in Alabama will say and do if you do not obey its mandate. I do not believe that we are violating the Constitution of the United States. If so, I am willing to trust my destiny along that line with the distinguished President of this convention and the chairman of the Suffrage Committee, and the other distinguished gentlemen who made the able argument on yesterday, Mr. Walker from Madison, and the other gentlemen who have spoken on this question, and the able lawyers in this body. I am willing to take their decision in respect to its constitutionality for my part. I belong to that class of young men that General Harrison referred to. I hope to God that I will always stick along the line that I have started on, of living up to the pledges that I make to my people. I have not grown beyond that yet. I want to live up to the pledges that I have made to them. We must all do that. They spoke of the young man back yonder who said that he could drink all the blood that would be spilled in the war, and whip the North with pop guns. We have all heard that old story. We know those were bloody times, but I would remind them for a moment of those of whom I speak, when I speak of the Confederate soldier and his descendants. I would remind the gentleman that it was a southern man who wrote the Declaration of Independence; that it was Washington who led the triumphant cause of the American independence; that it was Madison who wrote the constitution; that it was Marshall and Taney who construed the law; that it was Winfield, Scott and Jefferson Davis that carried our flag into the heritage of the Montezumas. I would say to them that it was these southern men that for four long years fought the battle of their country, and they could never have fought as they did at Gettysburg, perished as they did at Crampton's Gap unless

they had fought for the loved principle, and the descendants of these men you say will be humiliated and cast down when they approach the ballot box to register their will upon the public questions, must be required to state themselves descendants of Confederate soldiers. Far be it from him. There will never be a single instance in this State of that sort. Not one.

MR. PETTUS (Limestone): Mr. President, I move that the time of the gentleman from Chambers be extended twenty minutes.

The motion prevailed and the time was extended.

Mr. HEFLIN (Chambers): I thank the convention. I do not think that I will take up the time. Mr. President, we have here a peculiar state of affairs. Here we have a widowed woman, who owns possibly a hundred thousand dollars worth of property. She is disfranchised. She cannot under our law vote in any election. You say that is taxation without representation. You argue that in defense of the negro, and you say that you are not going to tax him without allowing him to vote, or to shut off his voice in public affairs, and yet here is this property that you are taxing today, the property of all the women in the State who have not husbands or sons old enough to vote, without representation.

Under our law, Mr. President, the Chinaman and the Indian cannot vote. Why discriminate against the children of the forest, the Red Man, who, by some means in the plan of God Almighty, owned this country before we found it? Why say to them that we will shut them away from the ballot box, and say to the negro whom we found in Africa, roaming the woods like a beast, brought here and sold a slave, we will elevate you to the high plane of a citizen in Alabama, and arm you with the ballot, but say to the Indian, you cannot vote; and, as was said by the gentleman from Wilcox (Mr. Jenkins), some of the proudest blood in Alabama today is Indian blood. Some men in Alabama are proud of that blood, but we have said to the Red Man, you cannot vote, but to the negro, you may.

Mr. President, I love to think of how faithful they were during the war. The gentleman from Montgomery (Mr. Oates) spoke about how they protected our homes, and how they looked after our affairs. That, Mr. President, was the old-time slave of over thirty years ago. That, Mr. President, was the negro that had been brought up in the kitchen, in the back yard, and brought up to reverence and respect his master. There was a spirit of fear that went about him; reverence for his superior, and a feeling of humility and obedience on occasions like that was innate, and we are glad that they

did so well. I am not an enemy to the negro. I am a friend to him in his place. My father owned more slaves than any man in Randolph County. I love the old-time southern negro. He was in his place as a slave, and happy and contented as such; and, Mr. President, I love to think of the old black mammy, as Governor Taylor says; I believe the day will come when the South will erect a monument to the old black mammy for the lullabies she has sung. We like to think of all these things. We like to think of old Ephriam, sitting around the fire place picking his banjo and eating roasted potatoes, and "sich." We love to go back and bring them back to memory; but you take the young negro of today, and put them in the same position that their fathers were in, and, gentlemen, a quarter of a century from now you would not be on a floor like this singing their praises. I tell you that the old negroes are passing out and the young bucks that are coming on have got to be attended to. I like to think of the negro from the old-fashioned southern standpoint. I like to tell him you do this, or you do that, John, and here is a quarter; you black my shoes, or catch my horse, and you go do this and that, and all is well; but when I have to walk up to him and say, John, come down off that telegraph pole that Governor Oates spoke of on yesterday, where he is setting telegraph wires through the city; come down, I want to talk to you about the tariff question, and sit down with him at my side, just light up our cigars and talk. We are equal in the light of the law, and I have got to sit down by you and ask you to vote my way, not because you are my equal, for God Almighty never made you so, but because under the operation of a law that was born in hate and malice, makes it so; and under it you are entitled to hear me and be persuaded by me to vote for me, or to vote against me. Is not that a sad state of affairs? Why, Mr. President, I saw this morning a little fellow coming down the street, met by my friend, Mr. Weatherly from Jefferson and the negro was as happy as could be, with a piece of watermelon in one hand and a set of cane quills from the swamp tied together with a string, in the other, blowing "Boogoo Eyes." You see them now and then in a blacksmith shop, with a squeaking bellows, and with the hammer and anvil making music sweet. That is his home; that is where he ought to be, and that is where he must be. For five thousand years, Mr. President, they have remained the same. Go back to the carvings of Egypt, and see their images there; look at the negro of today; he is a negro still, having made but little progres. All things that we see standing accomplished in the world today are properly the outer material results, the practical realization and embodiment of thought that dwelt in the white men sent into the world.

A man goes out and buys a section of land, or inherits it from his father, and in the midst of the place he builds a magnificent home, and there he rears his family, and a negro comes along through the country and builds himself a little house out in the woods, and becomes the servant of the white man and looks after his horses, and stands at the door with his hat off, and asks: "Boss, you want your shoes shined?" and all is well. He stays in the kitchen where he belongs. Finally, however, we see that man telling this negro, you are too good a man to be out there; come in by the fireside, and let us consuel together as to how I shall run my property. Mr. President, it is the same case. The white man bought this country with his blood, and the blood of his descendants inherited it, and the negro has no right to help make the laws that govern this country. He is inferior to the white man, and the white man should make the laws to govern the land. They say we do not hold out any encouragement to him. He doesn't need encouragement. Let him go on, and it won't be two years until he would be content with his condition and happier by far than he is today. Why, as soon as you elevate him, you ruin him. Mr. President, I take the position that it is best for the negro race. Take the lives of the hundreds that are killed every year at the ballot box. They will be saved when they cross the path of the proud Caucasian. It will be better for them. They will prosper more.

Now, sir, I have not the time to say what I would like to say, neither has this convention the patience to hear me. One other word, and I am through. Why, gentlemen tell us that the son of the Confederate soldier should not be allowed to vote, but he should work out his own salvation as his father did. Do not let him by reason of his father's valor and sacrifices for his country cast his vote. I cite the gentlemen to the Scripture. It is found in Deuteronomy, "And it shall be when the Lord Thy God shall have brought thee into the land which he swore unto thy fathers Abraham, Isaac and Jacob, to give thee great and goodly cities, which thou buildest not, and houses full of good things which thou fillest not, and wells to dig which thou diggest not, and vineyards and olive trees which thou plantest not."

It is the inheritance, Mr. President, that we are asking for the sons of the Confederate soldiers, those who supported their widowed mothers and schooled their sisters, and brought them up, and were themselves denied an education. We throw around them the strong arm of the law, and take them with us as we march up the mountain side to a higher and better time, a higher and better civilization.

Mr. President, so far as I am concerned, I am opposed to the disfranchisement of any white man, I care not whether he is

learned or unlearned, whether he wears the purple robes of good fortune, or the tattered garments of poverty and want. I care not whether he is in a little hut on the hillside or dwells in a mansion on the mountain top; he is a descendant of those who fought for our freedom, and men who have gained their priceless heritage that we love so well, and will die to maintain.

In conclusion, I want to say to the gentlemen who compose the minority of the committee: You will live to see that we are right, and that you are wrong, and the people of Alabama, whom we represent here today in this supreme body, will endorse our action and repudiate yours. I thank the convention for their attention.

Mr. HARRISON: Mr. President and gentlemen of the convention, it is with some diffidence that I rise to discharge what I conceive to be my duty. It is with regret that I felt forced to differ with the majority of the Committee on Suffrage and Elections. Four of us at least, who, after six week's labor, and after yielding point after point, have felt it our duty to differ at least in one particular with the majority of that committee. I am pleased to note that of that quartette all four of us have tried to discharge our duty as Confederate soldiers. We feel that we are at least entitled in part to represent that element who have been singled out, and have been sought to be made the special recipients of special privileges, and as one of that element, I come before you, fellow delegates, not to throw any firebrands, but simply in my humble way to discharge what I conceive to be my duty, to tell you what I believe and to warn you of what I conceive to be the dangers ahead. We are all white men in this convention, we are very largely all Democrats. The pleasing speeches that have been made, especially by my eloquent young friend from Marengo, might well have been delivered in a Democratic convention or on the hustings before the white men of Alabama, but I feel that here, where we are under solemn oaths as representatives of the people we owe a solemn duty to our common country, duty not only to the State of Alabama, but to the Federal Union, as well as duty to our party. We have said, some of us in our minority report, that we believe this grandfather clause to be unconstitutional. So believing, however much I may love my party, or love my race, I cannot support it until I am satisfied that I am wrong in this opinion. I hesitated long and well because of my high regard for lawyers on that committee, led as it was by two of the most distinguished jurists that ever sat upon the Supreme Bench of Alabama, but I am so constituted that I form my own conclusions, and I must be the keeper of my own conscience, no oth-

er man can keep it for me. While I have deference for their opinions, I find that not only my colleagues in the minority report, but I find many prominent lawyers in the State, and among them two of the distinguished lawyers and greatest statesmen in Alabama, our two honored United States Senators, who agree with us in this matter. Now, briefly, fellow delegates, for I have no set speech to make, nor do I propose to quote any particular authorities, but refer only to a new elementary principle of law, which has induced me to join in the minority report in opposition to this section. The Fourteenth Amendment to the Constitution of the United States made
51 the colored man a citizen of the United States. Up to that time, he was not a citizen. The Fifteenth Amendment says that, "The right of a citizen of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude." When I first took the oath to support that clause, I would rather have swallowed a mustard plaster, but I have sworn it repeatedly and I swore it here in this hall when I took my seat, and whether I like it or not, before God, I will die before I will violate my own convictions, and however much I may believe in their superiority to rule (and thank God, they are ruling and will rule, whether you adopt a new constitution or not.) But this article is an inhibition upon us. I am not only willing, but I desire to carry out every pledge in the Democratic platform as far as it can be done. And I believe it can be done without violating this article, but I do believe that by the adoption of this grandfather clause, you lay the straw that will break the camel's back, and that the plan laid out by this committee will be a failure. My distinguished friends say that all power is vested in the State, to regulate the privilege of suffrage. That is so without this inhibition. I admit that Alabama as a sovereign State could regulate it as it pleased until this inhibition by the Congress of the United States had been placed upon it. This says plainly that neither the United States nor any State shall abrogate or deny on account of race, color or previous condition of servitude any privilege as regards the suffrage. Does this do it? Why, I have but to refer to the speeches that have been made, to the one that has just preceded me, that we are white men, and that we intend not to disfranchise one white man and to disfranchise every negro. Gentlemen of the convention, you cannot do it.

Mr. SANFORD (Montgomery): I say to you that there is nothing here aginst the negro voting, and his children voting. There were 186,000 negroes in the Union army and 20,000 negroes from Alabama, and therefore it does not violate the Constitution of the United States.

Mr. HARRISON: I don't know where my friend get his figures, but I think they are very much exaggerated so far as the number of negro soldiers are concerned. I feel complimented that my friend from Montgomery has come near me to interrupt me, because I believe that what I say is making him think some. I say, Mr. President, that an inhibition has been placed upon us as representatives of the State of Alabama not to make any abridgment upon the right of suffrage to any citizen of the United States, and that negroes are now citizens of the United States. Take the grandfather clause. My friend here says that there were so many, but I appeal to your own general knowledge to say is he correct? Pray, tell me to what extent did the negroes ever participate in any of these wars set out in the grandfather clause? A few of them may have gone into the Union army in the latter part of it, but they were so few that it would amount to nothing. I ask you, my friends, what is the object in placing that clause there? Why do you want to put it there? Ask yourselves the question and let your own conscience answer it. If I believe with the majority of the committee I would gladly go with you. I never gave the right of suffrage to the negro, but as has been well said by my distinguished friend from Montgomery on yesterday, I propose to deal with the situation as I find it, I propose to carry out in good faith whatI conceive my duty to the Federal government, I devoted four of the best years of my life to the Confederate cause and after coming home and after going through the dark days of reconstruction, I in common with the people of Alabama accepted the situation and for one I propose to carry it out in good faith, however unpleasant it may be to me. It is an established principle of law that needs no authority to sustain it, that we cannot do indirectly that which we are directly prohibited from doing. This clause of the constitution says that we shall not abridge the right of suffrage on account of race, color or previous condition of servitude. I ask you to apply that principle to the clause. When we single out wars from the Revolution down, when the negro was not even a citizen and could not possibly participate in them, we simply say that these soldiers or their descendants, who were white men, may participate. Is not this true? My distinguished friend from Madison said it was simply to allow them, the descendants of soldiers, to retain the privilege which they already had. Suppose this is so. Does not the negro have his right today? And if you allow the white man to retain it, and not the negro, pray tell me is not this a discrimination. Isn't it doing indirectly what the constitution says directly that we shall not do?

Tell me, is there any difference because to a class who has had that right to say retain it, and you then take it from an-

other class who has also had that right, that makes the discrimination any less apparent than if neither class had enjoyed the privilege and it was given to one and not the other. Ah, isn't it a subterfuge? The Supreme Court of Alabama, in a case in one of the '70s says that the law abhors subterfuges and dodges. Isn't this a mere dodge? And if it be a dodge, can we afford to do it? Ought we to do it? Ah, but my distinguished friend says in his argument that this is not hereditary. Perhaps strictly speaking this is so. It does not say any future generation is to inherit it, but when we take the sons of certain sires and confer a privilege, isn't it practically the same thing; is it not hereditary? The article says because you are the son of a soldier you shall have the right to vote. Isn't that hereditary? Does he not acquire it from his parent and not from any merit or fitness of his own? Ah, fellow delegates, I don't believe that the son of a Confederate or the son of a Union soldier (and we have a good many of these in Alabama), would really ask or accept it upon such a ground, or that these soldiers themselves would ask that these privileges be accorded their sons merely because he was a son. Ah, but, says the gentleman from Madison, if this is unconstitutional, then the soldier clause is also unconstitutional. I have some doubts upon that proposition myself, but because of the merits of the soldier and his own shown patriotism, I am willing to take that clause standing alone. But you weaken the clause and you weaken the entire system by adding the descendant clause, because you make plain the intended effect. The addition of this clause to the other weakens your whole argument, especially after the action of this convention on yesterday in changing the first section. You are making apparent upon the face of the instrument what has been so often said here—to allow every white man to vote and not allow any negroes to vote. Now, I believe, fellow delegates, that we can comply with the Democratic platform and yet support the Federal constitution. I believe that this committee has presented you a plan, if you will strike out the clause under consideration that will practically allow every white man to vote and will permit every negro to vote who ought to vote, those who are competent and capable of voting, and it seems to me that that is as far as we should go. The delegate from Lauderdale has shown us a plan that will accomplish this. I say to my friend from Lauderdale, strike out your grandfather clause, and you have a plan that will accomplish it. I do not believe that there is a lawyer on that committee who has studied it but will say without this clause it will be practically just what it is without it. But it is said for the purpose of gaining popularity, to gain certain votes, we will put it in. I appeal to you, gentlemen, not to do it. If we are to make a constitution let

us make one that will stand the test of the courts, and not only of the courts, but will stand the test of legislation on the part of Congress. Give heed if you will, to the sentiment expressed by Senator Morgan who will have to stand with his colleague in the United States Senate and undertake to defend our action doubtless within a very few years, before the American Congress. Let us give them a constitution which they can stand by and sustain. When I came here as a delegate to this convention, I came thinking that the best we could do would be to adopt some simple plan, some plan like that suggested in Virginia, the plan of a poll tax and excluding certain classes of criminals, and I believe, so far as my section of the State is concerned, that it is all that is necessary or desired by it. After a long conference and association with gentlemen from different sections of the State on this committee, I was induced to believe that it would not be sufficient for the needs of every section of the State. I feel the necessity of an elastic plan as the conditions are different, in various parts of the State. To carry out the desires and wishes of the people in purifying the ballot and striking from the list of voters the criminals and those who are unfit by character or otherwise from engaging in the suffrage, I am willing to concede even my own better judgment and take anything that the majority of my associates see proper, provided I do not regard it as unconstitutional, or subversive of the very principles of our government. That this clause is subversive of these principles I do believe. I think my friend and colleague, the gentleman from Barbour, has shown to you this in his remarks on yesterday that by reference to our own bill of rights which has been in the Alabama constitution since 1819, and which this convetion itself has adopted without any dissenting voice. I will never, so far as my vote and my voice is concerned, consent to change that principle of Americanism for which our forefathers fought when they established this country, when they left the British Government and fought for our independence, because opposed to anything hereditary in the shape of honor, emolument or privileges. You have selected a patriotic and popular clay upon which to engraft this dangerous principle. It appeals to the soldiers, it appeals to country. But you lay down in the organic law principles of an hereditary privilege, where will you stop? You engraft it into the fundamental law of the land. Is it right that a man shall have a certain privilege because he is the son of a certain father? Is it right? Do these sons want it? Especially the sons of Confederates. When you take them to register under this plan, let us see how it will work. He is asked by the Board of Registrars three questions, three qualifications are prescribed. First—though it appear here last—all persons of good charac-

ter and who understand the duties and obligation of citizenship under republican form of government. Second, all soldiers—and there is a reason against the clause under consideration, which does not apply to the soldier clause. This includes the war with Spain and that includes some of the other race, a large number of them, but not their descendants. Now take the son of a soldier before the registrars, and propound the question "Were you a soldier?" No. Are you a man of good character and do you understand the duties and obligations of citizenship under a republican form of government? No. If he answers, yes, he can come in without the other. If he answers no, he doesn't come up to that qualification. Are you going to allow a man to vote who is not of good character, who does not understand the duties of citizenship nor the principles of a republican form of government, simply because he is the son of a soldier? Do you think the registrars would allow any negro who did not have the qualification to vote? Then is it not violating the Federal constitution? Is the son of a soldier, though a white man but not of good character, and who does not understand the duties and obligations of citizenship, under our form of government, but simply because he happens to be the son of a soldier to be permitted a vote? Would not that be violating the Fifteenth Amendment? and would it not be apparent on its face? Is it right? I do not believe that you will find the worthy sons of and Confederate soldiers who would accept it that way. I do not believe there is an old Confederate living who would ask his son, not being of good character, or not understanding the form of our government, should be admitted to a privilege simply because he was the son of a soldier. I am warned by some one that I have only five minutes left. I don't care, fellow delegates to consume your time.

Mr. DE GRAFFENREID: Will the gentleman allow me to interrupt him for the purpose of making a motion to extend the time.

Mr. HARRISON: I will try to get through within the five minutes if you will allow me. I never wish to consume more than my time. And it is always unpleasant to me to speak when it is apparent that my views are against those of the majority of my associates.

Mr. DE GRAFFENREID: I move that the rules of this convention be suspended and that the gentleman from Lee be allowed to address the convention upon this subject for twenty minutes longer.

A vote being taken the gentleman's time was extended twenty minutes.

Mr. HARRISON: I thank you, Mr. President and gentlemen of the convention, though if I had not been interrupted I believe

I would have finished in my allotted time. To justify myself in signing the report that I have publicly made and from a deep sense of duty, I propose in addition to what I have said, to ask you if those of us in the minority, if the lawyers in the State of Alabama who agree with us, are right in our views what will be the consequences of the adoption of this section? And I appeal to the distinguished chairman of the committee and the lawyers who are sustaining him in the belief that this is not unconstitutional, if they do not honestly believe so far as the practical operation of this plan is concerned that it will work as effectively without it as it will with it, and if in any endanger the whole plan? We have two sources through which to apprehend danger on this line. If our lawyers in this State who are all our friends and of and among us are divided in opinion, what will a partisan court do? I beg to remind you that if this matter is tested, it will most likely be tested by the Supreme Court of the United States, the majority of whom are Republicans. If men whose whole hearts and sympathies are with the people of this State differ so widely, remember in the tribunal before which you are to have it passed upon, the majority of them are Republicans, and those who are Democrats occupy a very different position from what the Democrats of Alabama occupy. Already this very clause in substance has been made a subject of test in Louisiana and an appeal will likely be taken to the Supreme Court of the United States. Suppose that decision is adverse to the plan. Then where are you? We are told by some members of the committee that these various provisions are in the disjunctive. And the committee have put in another provision that the legislature may fix any part that is declared unconstitutional. I will ask you if this law is held unconstitutional would it not break down the whole plan? Who will constitute your permanent list of voters? Although in the disjunctive there are three sources from which you make the permanent list—the character clause, next soldiers, then sons of soldiers or grandsons. Suppose the grandfather clause is held unconstitutional; what court on earth could tell who went in under one clause or the other? There is nothing in here providing that it shall be kept separate. They are so intermingled that no court could tell under which clause the voter registered. Therefore if one is unconstitutional the whole would be void. You could not tell one from the other. If held void who is to fix it? The legislature. I appeal to my friends who want this grandfather clause for the purpose of popularizing it in certain parts of the State, what will be the effect of it? You have gotten up a plan that your committee proposes to leave to the legislature, can the courts destroy any part of it? The legis-

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lature will not submit it back to the people. Go into that section of the country where you think it is popular to insert this clause and I believe you will find that the sons of soldiers there and the soldiers themselves will not thank you for it. They will tell you their character is as good as that of anybody else, that they understand this government and they are able to stand the test at least with a negro. I submit that you will insult them when you put it in there, and in the second place, when they look at it, and are told that perhaps it will not stand the test of the courts, and in that event you propose to leave it to the legislature which will not submit it back to the people, I believe it will prove to be one of the most unpopular things that you could do. It is not only the courts that we are to apprehend. I appeal to the older men of this convention who not only were Confederate soldiers but who were through the still darker and harder period of reconstruction when the Federal Congress had declared that Alabama did not have a republican form of government, when our beautiful State was impoverished, overrun with carpet-baggers and scallawags and when we went through what was worse than four years of war. Through this period of reconstruction which was worse than war itself even soldiers had to pass. I desire to warn you against any step that is likely to produce another reconstruction. If you adopt this clause and we of the minority should be right that it is unconstitutional, and the Court declares it so, what is likely to be the result?

What do you believe that a United States Congress composed of Republicans would do in a closely contested Presidential election, when the vote of Alabama, Louisiana and North Carolina, with these contested clauses in the constitution, or any one of them, would settle the contest? The Hays and Tilden contest would not be a circumstance. Do you believe that the Republican majority, as partisan as we are partisan, would permit it to stand? Methinks I see, fellow delegates, a Republican Congress declaring that Alabama has not a republican form of government, and refusing to count our votes, and we are again in the throes of reconstruction. You may tell us this will not be, but I tell you it is more than probable. Because we have had an easy time for the last decade or two let us not fail to judge the future by the past. I simply desire, in the discharge of my duty to warn you of these apprehensions, which have come to my mind. With no desire to fight the majority in anything, but willing to concede all that I can conscientiously do, I desire to call your attention not only to what the courts may do, but what a Republican Congress may do, and appeal to you delegates who went through the dark days of reconstruction, not to bring on us another like period.

It was awful. We would like to blot it out. The beautiful and eloquent speeches that have been made here, particularly by the young men, who do not remember those days are perhaps all right, were their strong point. They remind me of the beautiful speeches that were made in the early days of the secession, when some of our orators offered to drink all of the blood that would be spilled, and to whip the North with pop guns, but admitted afterwards that they had made a mistake, for these people would not fight that way. My fellow delegates, a Republican Congress is what I wish to warn you of. I have been with them. There is a feeling of acquiescence now, and they talk that way, especially so to cover up certain things that are being done in our new possessions, but you bring this matter into a heated political contest, and what may we expect? They are as partisan as we are and they will never submit to it on earth. I for one cannot by my vote run any risk on a proposition that I feel will place Alabama again in the throes of reconstruction, and deprive her of her representation in the Congress of the United States. I may be wrong. If you adopt this clause, I hope I am wrong, but I do not believe that I am. Go on if you will, adopt it if you please. But if I am right and the worst comes upon us, I desire you to remember that one of you, one who loves you and loves his people, warned you of the consequences. And, if it must come, then I at least shall have discharged my duty, and you "cannot shake your hoary locks at me and say I did it."

Mr. WHITE: Mr. President and fellow delegates: I regret having to differ with the majority in its report on this the chief measure before the convention. I had hoped that our recommendations on suffrage would be unanimous. I am glad to say, however, Mr. President, that we differ not upon the end to be reached, but upon the method or means to be employed. We understand our commission from the people exactly alike, and that was that the ballot and its exalted privileges should be taken from the unworthy, incapable and vicious, and that its free, fair and full exercise should be secured to those who appreciate its responsibilities, and who will be trustworthy in discharging the sacred obligations which it imposes. It is not remarkable, either, Mr. President and gentlement of the convention, that we should differ upon the method or means to be used when we recall the fact that in the very outset we were confronted with two barriers directly opposed to each other. One was the fifteenth article of the Federal Constitution, which declares that the right of a citizen of the United States to vote shall not be denied or abridged by the United States, or any State, on account of race, color or previous condition of servitude. The Fourteenth Amendment having declared before that time that the negro

was a citizen and a citizen of the State wherein he resided, this provision shielded him as such from discrimination and attack. The democratic platform, by which we were pledged to abide, on the other hand, declares that no white man shall be deprived of the right to vote except on conviction of infamous crime. Were men ever placed in a more narrow or more tortuous channel through which to guide the ship of State than was your Committee on Suffrage and Elections? Besides, the platform declares that we should reform the suffrage within the limits of the Constitution of the United States. Then, without the privelege of discriminating against the negro, because of his race, by the provisions of an instrument, which we had taken a solemn obligation, in the face of men and in the presence of God, to observe, and, on the other hand, a pledge by the party with whose destinies and whose fortunes we had been united from our childhood until this hour, not to disfranchise any white man, was it strange that we should differ about the method or the means to be employed in reforming the suffrage? Mr. President and delegates, I have faced responsibilities from my childhood until now. I saw the storm clouds gathering when I was a boy in the political horizon of my country. I stood in the battle-swept section of this Union. I shared its fortunes and performed my humble part, and when, with Bedford Forest, at 16 years of age not larger than one of your messengers, I met the advancing column of the enemy, formed in double line, when we were deployed at ten paces apart and were armed with pot-metal guns, while the enemy were armed with Spencer rifles in the last battle of the war on Alabama soil, when I saw seventeen men of my company, composed of thirty, left dead or mortally wounded upon the field in five minutes. I never felt more serious then than I feel today. My flag, my country, my hopes were at stake. My country, my State and our people are at stake today. In my young manhood, I saw reconstruction with all of its horrors. I saw the white men of my State placed under the domination and the heel of the black race. I saw the time when white men had no rights respected by them. It was then, sir, in my town, in another State, the white league was formed of three men. I had the fortune to be one of the three. All swore then that the white men of Mississippi should rule that State, or every white man within it would die. I felt serious then, but I did not feel any more serious about the situation then than I feel today. We have been called together by our constituents to reform the suffrage in Alabama. Whether that be to maintain white supremacy or to secure honesty and fairness at the ballot box, we need not stop to inquire; but we were commissioned to reform the suffrage in Alabama. That devolved upon us the task of doing

that work right, of doing it in such a way that it will stand the test that may be applied to it in the courts and in the Congress of the United States.

This is a time when the sober thought and the highest reason and the deepest patriotism should move us in our work. I have no criticism to pass upon the majority of the committee with whom I differ. They are struggling to reach the same end that I am struggling to reach. We only differ about the route we should travel. They have selected a plan represented by the majority, and my distinguished friend from Madison is right when he says we must judge of it as a whole. It is a complete plan within itself, and every section in it contributes to it as a whole. I differ with the majority as to the constitutionality of this plan; that is, I mean to say that I believe the subdivision giving the descendants of soldiers and sailors the right to register without any other qualification, is violative of the fifteenth article of the Federal Constitution. Let us see whether that be true or not. Most of you are are lawyers, and therefore, your responsiibilty is that much greater to your people. That instrument says you must not discriminate against the negro because of his color, race or previous condition of servitude; that is, you shall not make a "difference," (because that is what "discrimination" means), between his race and the other people of the country. You shall not do that either directly or indirectly. It is not what we want; it is not what we like, but, Mr. Chairman and fellow delegates, it is what can we do to reform the suffrage in the face of that provision in the constitution? What is the provision in the suffrage plan? The first provision, though last in order in the plan, is that to entitle a citizen to register, he must be of good character and understand the duties and obligations of citizenship. That is the general proposition. That covers all men alike and upon its face, it is perfectly valid. Then the next provision is that all soldiers of the war of 1812, the war with Mexico, the war with the Indians, the war with Spain, in the civil war, and the soldiers of the Confederate army in the war between the States, shall be entiled to register whether they have the character and intelligence to understand the duties and responsibilities of citizenship or not. The next provision is the one that shows the purpose of, and, in my judgment vitiates the whole. It is the clause which gives to the descendants of those who served in the army of the United States in the war of the Revolution, in the war of 1812, in the war with Mexico and the Indians, and the civil war, and those who served in the Confederate army, or in the army of the State of Alabama, in the war between the States. the right to register whether they have good characters and understand the duties and responsibilities of

citizenship or not. By the clause just mentioned you have formed a group or class who cannot register or vote unless they are of good character and understand the duties and responsibilities of citizenship. By the other clauses you have made a group or class in which you say they shall have the right to register whether they meet that standard or not. Now those are the only three provisions in the temporary plan, remember that. They have no connection whatever with the permanent plan of registration. They all unite to make up what is known as the life electorate. By this scheme we have one class that must conform to one rule; that is, they must possess good character and understand the duties and responsibilities of citizenship; and we have another class which is formed of those who need not possess those qualifications at all. I ask you if, in the formation of these groups—if in the formation of these classes—you have not discriminated in favor of one class against another. (That alone will not render the scheme vicious. I ask you as thoughtful men, to answer the question whether you have not made a plan upon which one class shall stand, and another plan upon which another class shall stand. If you do not think
53 over that now and think over it well before you act, you will have the balance of your lives to devote to it. I demand of you as honest men, to answer the question if there is not a distinction, if there is not a difference, if there is not a discrimination, between the group we have formed on one side and the group we have formed on the other? Deep down in your hearts as delegate to this convention. I want this question to have its habitation. If I am right, in declaring that there is one condition prescribed for one group and another condition for the other thus formed then the next question which presents itself is: Has race, color or previous condition anything to do with the formation of the groups if it has in such sort as to discriminate against the negro as such then it is invalid under the Fifteenth Amendment. The group, composed of persons having good character and understanding the duties and responsibilties of citizenship, will be composed of both races. The other group is formed of soldiers who served or the descendants of soldiers who served in certain wars. Now I understand perfectly well and see the force of the criticism made by some of the gentlemen on the other side when they ask the question, "If the descendant clause is wrong, how can you sustain and uphold the soldier clause? There is great force in that query, but I think that can be answered. Who constituted the group in the soldier clause? The soldiers of 1812 have passed away and joined the ranks on the other side. The soldiers in the Indian wars have gone. The soldiers of the war with Mexico constitute an insignificant

class. There are probably not one hundred of them in Alabama. The soldiers who served in the Confederate army have mainly crossed over the river. The average age of the soldier in the Confederate army when he enlisted was 35 or 36 years. They entered from 16 to 60. Add to his then age the thirty-six years that have passed since the war closed and you have 71. So the man of average age who entered in the Confederate army has passed beyond his three score years and ten. There are only a very few of them left. The number of them alive is so small compared with the whole number of voters that it could have but little effect and their admission to the electorate could hardly be called a discrimination as against those not so admitted. Moreover these men made sacrifices for their country; they showed their patriotism on the field of battle they acquired that knowledge and discipline that follow army life and are better equipped for the duties of suffrage, or the duties which suffrage impose, than men who never engaged in it. That classification or grouping is not an arbitrary one. There is reason, there is justice in it. We will take the other class, the descendants of soldiers, who compose it. First, the descendants of those who fought in the revolutionary war; every one of whom are white men; the next are the descendants of those who fought in the war of 1812. Every one of those are white men; the next are descendants of soldiers who fought in the Indian wars, they are all white men.

Mr. JACKSON (Calhoun): I move that the time of the gentlemen be extended thirty minutes.

The PRESIDENT: The time of the gentleman has not expired.

Mr. JACKSON: I thought it had about expired.

Mr. WHITE: If the motion is to be put, I would rather it be put now, that I may not be interrupted again.

Upon a vote being taken, the motion was carried, and the time of the gentleman was extended.

Mr. ROBINSON: I desire to know if you favor all the balance except the grandfather clause?

Mr. WHITE: I will answer that directly. The descendants of those who fought in the war with Mexico are all white men; the descendants of those who fought in the Indian wars are all white men; the descendants of Confederate soldiers and of Alabama soldiers are all white men. Ninety per cent. of the descendants of soldiers of the Union army in the war between the States, who live in Alabama, are white men. There are only the descendants of a few negroes who enlisted in the Union army in Alabama, just after the close of the civil war, who are black men. The negroes who enlisted in the Union army from Alabama did not have an organization in the Federal army. These are the only ones of that race, except such

others as may have drifted to Alabama since the war that would be included in this group. The records of the War Department at Washington disclose the fact that Alabama furnished to the Union army only 2,570 men in the war between the States and we know that there were at least two regiments of those who were white men. I say to you and the statement is conservative, that 95 per cent. of this group which you have formed of the descendants of soldiers are white men and only 5 per cent. are black men. It is useless to ask whether we want it, because it embraces many more white men than black men. It is not a question of what we want. It is a question of what we can do under the Federal constitution. Can we discriminate? We know we cannot. Have we not discriminated by this arrangement when 95 per cent. of the class we constitute are composed of one race, and 5 per cent. composed of the other? And that was done by drawing an arbitrary line without reference to the qualifications for suffrage by those embraced within it. Yes, a line in conflict with the spirit and genius of our government. I maintain that while you do not disfranchise the negro in terms, you do it in effect. Gentlemen, I ask if you have not done so in effect? Remember that this provision must pass under the scrutiny of a gaze not so friendly as ours. I can draw a line no more arbitrary than this that every man in this convention who is a lawyer will admit it is a discrimination against the negro. Suppose by a provision we should carve out the counties of Greene, Sumter, Marengo, Dallas, Hale, Perry and Lowndes and draw a line around them and say that those encompassed therein should not have the right to vote. There are white men in those counties, but there are five to ten black men where there is one white man. Would any man pretend to say that would not be a discrimination on account of race? Suppose, on the other hand, we should adopt a provision that none except those with straight hair like most of us have, should vote. That does not discriminate in terms, but does it not discriminate in effect? There are some black men who have straight hair, and there are some white men who have curly hair, therefore some of both classes would be on either side, but I ask you as thoughtful men, if you would not say that was a discrimination on account of race or color. Suppose you adopt a provision in your organic law that none having flat noses should vote, that is not a discrimination in terms, because there are colored men who have sharp noses, and there are white men who have flat noses, but would any man with reason assert for one moment, that that would not be a discrimination on account of race. When we thus draw an arbitrary line that accomplishes the object and does it effectually, how can we say in our consciences, and how can we maintain before the courts of the country that it

is not a discrimination? Under the law we may adopt a rule, prescribing conditions applicable alike to both races. Am I wrong in that? If I am, I ask some gentleman on the majority side to correct me. I believe that is what was announced by the distinguished gentleman from Madison yesterday. It has been said by the Supreme Court of the United States that a rule prescribing conditions alike applicable to all, is permissible. If that is true, have you complied with it in prescribing a rule here that is alike applicable to all? With a homely illustration, I can make it even plainer. When you put a sow and pigs in the pen, and build a fence around them, and then leave a crack through which the pigs can pass, you have discrimination in favor of the pigs and against the sow. Then, gentlemen of the convention, when you erect here one plan that covers 95 per cent. of one race, and have adopted a provision covering the whole of the other race, save 5 per cent., I ask you if you have not discriminated? Am I wrong in this? Your distinguished Senator, General Pettus, one of the best lawyers in the South, after having investigated it for the purpose of determining whether or not it was in violation of the constitution, declared that it was. He investigated it for the Louisiana Senators at their request. The provision in the Louisiana suffrage plan is not different in effect from ours, and he gave it as his written opinion, that it violated the Fifteenth Amendment. He is now opposed to this clause, and that other distinguished Senator from this State is also opposed to it. I will send this letter to the clerk's desk, ask him to read it and I ask you if you will not listen to me, to listen to him.

WARM SPRINGS, VA., *July* 6, 1901.

DEAR CAPTAIN WHITE: The American revolution was not so much a redress of grievances, as it was a struggle to abolish heredity in government. That was the real line of division between democratic and regal government and between free religion and the church established by law. Heredity disappeared, with its associated rights of perpetuity in the ownership of lands, and many minor hereditaments of feudalism, such as titles and tenures and servitudes, when our new democratic scheme of government was instituted.

Political heredity, and all its appurtenances, such as prerogative and titular nobility and primogeniture, and all its protecting laws, such as corruption of blood, premunire and excommunication, perished and were placed under the heel of prohibition by our constitution. Whoever would restore any of these, to that extent, discredits the cause of the Revolution.

Without suffrage, the new system had no possible means of expressing the sovereign will of the people in laws, and their enforcement by executive and judicial authority.

These necessary agents of the government by and for the people can only be chosen by voters; and voters could only be created by law, not by inheritance. These voters are chosen representatives to perform the single function of electing the lawful officers of government.

The trust confided to them is personal, and can neither be sold, or delegated, or transmitted by inheritance, or by will to any other person. It is this quality of non-transmissibility that distinguishes it from the regal form of inheritance power, and marks the line of the impassible gulf between regal government and democratic government. The voters, as a class, or body, have certain physical conditions, such as age and sex, that are necessary qualifications and certain moral and political qualifications that are personal and independent of heritable blood.

To make blood the medium of transmitting the electrical power from father to son, is to uproot from its foundations, the whole system of democratic government, and to reinstate the system and the form of regal government.

The Fourteenth and Fifteenth Amendments have no more to do with this subject than any other part of the organic law.

The transmission of the electoral power by the blood of inheritance from father to son, would destroy all distinction between regal government and democracy, and would throw the door wide open for a return to the system that the American Revolution abolished. The steps would be few, and would be rapidly taken, to the complete restoration of monarchy, so soon as we give to any class of voters the power to qualify their sons as voters by inheritance. In this case, it is the first step that tells, with fatal and irrevocable effect. The argument is irresistible, that offices should follow the blood, if the power that creates them is the blood of inheritance; and this is all that is meant in the British system of titled nobility which alone legislates in the House of Lords, and of regal blood and prerogative which upholds the throne, and the power of appointment to office, which is an appenage of the throne, and the pardoning power over which the people have no control.

We are making too near an approach to this system of the perpetual transmission of power, by inheritance, succession and appointment in the wide latitude of power, and wider exemption from responsibility, that our courts are giving to corporations. The process is not identical, and is not beyond control, in the case of corporate powers and the almost immortality of their alleged rights of succession. But their triumphant and alarming license reaching above the powers of government, serve as an indication of the wild demand for office, patronage and power that will follow when the States have established a right of heredity as to the electoral franchise.

When such a titled class of voters is created by the organic law, it will soon occur to them that no other class should be allowed to vote, and they will usurp all power. It is far from being a comfort to me that some negroes are included, and many white men are left out, by the ordinance reported by the majority of the Committee on Suffrage in this ordinance of inheritable blood. With great respect,

(Signed) JOHN T. MORGAN.

To Hon. Frank S. White, Delegate to the Constitutional Convention of Alabama.

Again, on July 17, he says: "Your stand against suffrage by inheritance is so obviously right, that the statement of it is conclusive." Now, Mr. President, my friend, the distinguished gentleman from Madison, says this clause is but another means of designating a class who have the capacity to exercise the elective franchise. In other words, that you could select the men by name, that this is but the means of designating a class which already possess the qualification. I believe I state it correctly. The error in this statement is that he assumes that they possess the qualification. You let a man assume the major part of his proposition, and he can build the balance, so that it will appear sound. You say they are capable because they have had the right, because they exercised the right.

54 Mr. WALKER: Because they exercised it rightly.

Mr. WHITE: Yes, because they exercised it rightly, you assume that, and yet we are told—we are here assembled together to prevent fraud from being committed by the white race.

Mr. WALKER: Do you deny that they have exercised it rightly?

Mr. WHITE: I deny they have all done it rightly. I deny the fact that the sons of soldiers, because they are sons of soldiers, possess qualifications for suffrage to a higher degree than other men. I know men who are the descendants of soldiers, who are wearing the stripes in the penitentiary today.

Mr. WALKER: They are excluded. (Applause.)

Mr. WHITE: Do you deny it? Yes, they are excluded, but there are those who yet may wear the stripes—who are not.

Mr. WALKER: And they will be excluded. (Applause.)

Mr. WHITE: But they were not excluded by your argument, nor by your plan of suffrage. I could answer you, with your logic, that if because these men had the right, and have exercised it they are therefore qualified to vote, leaving out the assumption that they have rightly exercised it, that is, ev-

ery one of them. I can reply that the negro has had the right and has exercised it, and therefore is qualified to exercise it. You assume on this floor that one race does it well; when it reaches the Supreme Court of the United States they may deny that assumption and say they have the right to assume that such is not the fact. They have already declared in the case of Neal vs. Delaware the reverse of that, where they say that the presumption that there were no negroes in Delaware capable of jury service, indulged by the courts of the State, was a violent presumption, even though made by the Supreme Court. In deciding this matter the Court will look at the history of the times. They will look at the conditions as they exist. They will take judicial knowledge, or that common knowledge known of us all, and then declare what the effect of this instrument is. My friends, the majority of this committee, in adopting Section 19, have expressed their fears. This child of theirs is a creature of the thirteenth century, born out of time, whose great grandfather lives in the State of Louisiana, and whose grandfather lives in the State of North Carolina, its immediate parents are the majority of this committee, and they do not seem to have that confidence in is robustness and longevity that parents usually have. By this section they prophesy its early death. They have made a shroud of its swaddling clothes, have made the song of its birth its funeral dirge. Methinks I see over the hill standing by a new-made grave a sturdy judicial officer with spade in his hand. I see the procession passing over the hill. I see this infant being borne to its last resting place, and at a turn in the road I see the majority of this committee with the index finger of the right hand pointing in the direction of the tomb, saying, "We will show you the way." Mr. President, they are not mounted; they are on foot, and I want to say that I may be in that procession, but if I am it will be simply as a friend of the family. I am in no way connected with the deceased. Now, Mr. President, what is the necessity of this? Why is it proposed to incorporate into the Constitution of Alabama this clause? It was put into the Constitution of Louisiana because they had erected an educational qualification of a high standard, and in default of possessing the education required by the constitution, then a property qualification which would have debarred many white men from voting in that State. Remember, we have neither an educational nor property qualification. We have nothing except that a man be of good character and understands the duties and responsibilities of citizenship. In Louisiana they only took one horn of the dilemma, they took what is called the descendants of grandfathers clause, but they laid aside the understanding clause. We propose to adopt not only the grandfather clause but the under-

standing clause as well. Mississippi took the understanding clause. North Carolina took the grandfather clause, but North Carolina also had an educational qualification that shut out many of her white men. We have no educational qualification to shut out white men under the temporary plan. Then why the necessity of burdening this scheme with a thing that is wholly unnecessary. Why sould we take the chances in the face of the conditions which threaten us. We are told on the floor of this convention this morning that the North has become more friendly than it was in the past, and that the President of the United States is looking now with favor upon us. I think the gentleman who gave utterance to that speech did not see the platform made by the Republican party in Ohio, under the dictation of Mark Hanna and Mr. Foraker, the President's own State, in which they declared that the disfranchisement of the black man in the South must stop. It is not the first time we have seen the cloud rising on that horizon. We hear today the muttering thunder and we know, if we know anything, that the Republican party will not lose the great States of Indiana, Illinois, New York and Ohio by keeping their hands off of us when the negroes in those States demand that their race in the South shall be protected, and the negroes in every one of those States control the balance of power politically. The time is coming, and rapidly coming, when in the Congress of the United States it will be declared that Alabama's representation in Congress and in the electoral college shall be reduced in proportion to the vote that has been taken away from this race. Can we afford to spare that now? Do we not need every vote in Congress and every vote in the electoral college to save Alabama from discrimination that may be made against her there? I believe that the Republican party of the North is waiting until the trap is full. They have seen Louisiana, Mississippi, South Carolina, North Carolina fall into line and they are looking for Alabama and Virginia and possibly Florida and Arkansas to follow. When the trap is full they will make a blow at the South and her people will feel it. Moreover if this suffrage plan is declared to be unconstitutional by the courts of the United States the entire life electorate must fall. You lawyers are familiar with the principle that when fraud enters into a transaction, though a part of the consideration may be genuine, and a part of it simulated, you cannot separate the one from the other, but the whole transaction must fall. You no doubt remember the line of cases beginning with Ivy vs. Stringfellow, I believe it is in the 73rd Ala., which declares that in the sale of personal property and real estate made in the same transaction for gross sum, you cannot enforce the vendor's lien because you cannot separate the consideration agreed to be paid from

the personal property. The life electorate formed under these three provisions, one under good character and a knowledge of citizenship. I am sure if this clause is declared invalid by the courts the life electorate established by our suffrage plan will all fall as it will be impossible to determine under which of the three provisions the voter registered.

THE PRESIDENT: The time of the gentleman has expired.

Mr. WEATHERLY: Mr. President and delegates of the convention: As a member of the Committee on Suffrage and Elections, and as one who supports the majority report of that committee, I feel that it is my duty to myself and to this convention to address it briefly, and state my reasons for having concurred with the majority. The object of the plan proposed by the majority of the committee was to create a reform in the electorate of Alabama, far-reaching in its character, going to the foundation of our social order, and based upon the hope that eventually, under the operation of that plan, our beloved State and its people might become completely restored to ideally harmonious relations with the nation of which we are a part. Gentlemen of the convention, it is public history that for twenty-six years we have not been in touch with the nation of which we form a part on one subject, and that subject is the one concerning the exercise of the suffrage by the negro.

The people of Alabama, exercising a revolutionary right, have decreed that the Fifteenth Amendment in so far as it may include all of the negro race of voting age, shall not be enforced in the State of Alabama. Can any man deny that? Can any man deny the fact that almost since the adoption of the Fifteenth Amendment, the very immunity which it sought to secure has been annulled by the unanimous voice of the white people of Albama? Now that has been done by revolutionary methods; by force and by fraud, and, as always happens when those methods are resorted to, other evils have been created. Fraud having become necessary it has debauched the consciences of our people. It threatens the degeneracy of our descendants, and we feel that we cannot perpetuate our decree of annulment by those methods. That is not because of any antagonism to the National Government. That is not because the southern people or the people of Alabama are not in accord with the other constitutional amendments which followed upon the war, and which were intended to adjust our relations with the National Government. There is no dissent amongst our people as to the Fourteenth Amendment, which declared that the negro should be a citizen. Although by force and fraud, by revolutionary methods, the negro has been disfranchised for twenty-six years in the State

of Alabama, and although the negro who was given the right to vote, theoretically, for the purpose of maintaining the civil rights accorded to him under the Fourteenth Amendment; although side by side these two amendments stand in the constitution, the one has been discarded by the people, and the other has been maintained in its integrity. The white people of Alabama have showed their allegiance and their loyalty to their Government by according in substance to the negro all of his civil rights. There may be some few scattered communities here and there in the State where that is not true, but I say it without the fear of successful contradiction, that the people of Alabama are irrevocably in favor of according to the negro his civil rights. In evidence of our loyalty, we have sent our sons to fight the battles of the nation, to the West Indies, and out to the Philippines, and the National Government has honored our people by making generals of those who are already distinguished amongst us, one of whom sits here in this convention. We are in accord with the National Government except upon the one single proposition. We are not in accord upon that proposition, and we can never be in accord upon that proposition, if it shall be maintained that it is our duty under the Fifteenth Amendment to accord the full and unrestricted right of suffrage to the negro race; that because he is a negro he must vote, whether he is qualified or not; we can never assent to that proposition.

Now, what are we here for? I think, delegates of this convention, that we are here for a higher and a broader purpose than has been stated by the gentlemen who have preceded me in the opposition. One of them has said that we are here to purify the ballot, another has said that we are here to eliminate the vicious and ignorant negro from the right of suffrage. Both of those propositions are true, but we are here for a still higher purpose. We are here to put upon a permanent basis the elements which will hold our civilization together, and we are here for a still higher purpose, namely, to restore the State of Alabama to its absolutely normal relation to the National Government by providing a plan of suffrage which will give to the negro an equitable right of suffrage, and give him also the hope of increasing in proportion and in numbers that right of suffrage, a fair and equitable plan upon which and by which, he may, as the years go by, if he has that in him which will capacitate him for self-government, stand at last upon the same footing as the white man, so far as the right to vote is concerned; but insofar as he shows that he is incapacitated, we want it fixed in our law, in our social structure, that he shall be disqualified from voting. Now, that is a great hope to hold out to the people of the State of Alabama, that all these fears and anxieties

of the past, growing out of the disturbance of the relations between us and the National Government, shall be dissipated; that, at last, as the final step in that long drama of our tragic history, beginning with the importation into this country of the negro race—as the final scene in that terrific drama, we can say to the world we have at last been restored completely and fully as an integral part of the most majestic government that ever lived upon the face of the earth. (Applause.) Now, in accomplishing these objects, we have got to look at the facts as they are. We are not idealists; we are not theorists; we are trained in the art of self-government. We know that there is no such thing as fitting an ideal theory to an actual condition of society—a condition, by the way, which has been brought about by controversy and bloodshed. We have got to deal with the situation practically. Now, what does the majority of the committee propose to do, and it is concurred in by the other four members except in one respect? Here is an actual condition of things. The bulk of the negro race not voting at all, and never having freely exercised the right of suffrage since he became a citizen of the United States. The white element of the population, all voters, manhood suffrage established in all its fullness and integrity, and we must adopt a plan which must be sent back to those electors and be ratified by them. Otherwise our efforts fall fruitless to the ground. Won't the people of the civilized earth, the civilized people of the world, won't they recognize that as a practical difficulty? Cannot anybody with intelligence and sensibility, viewing this situation, viewing our hope, and our great ambition to be restored fully to our relations with the National Government, viewing the difficulty of getting a Constitution ratified by the people, which is simply theoretical in its provisions—won't any person of sensibility and spirit, whether he belong to the Republican party of this Government, or whether he be a member of the Supreme Court,
55 or the President of the United States, be able to see that there must be some compromise? So that, what the committee has done is this: It has attempted to provide a simple formula of a temporary character whereby the white voters of the State shall still enjoy substantially the privileges, voting privileges, which they have had, and also whereby those of the negro race such as are qualified, may get in as voters, and then at the end of that temporary period, which is short, begins a new era which marks the most perfect equality of conditions, as between the two races. In theory even the most hypocritical could not make an objection to it. Now, the simple formula provided for in the temporary plan contains substantially two propositions. One is that those who were soldiers in certain wars, and their descendants, shall be en-

titled to vote, or if they are not soldiers, or the descendants of soldiers, they shall be entitled to vote, if they have good character, and understand the duties and obligations of citizenship under a republican form of government. It has been objected, and it is the sole objection of the minority, that the second subdivision of this arrangement is unconstitutional, is violative of the Fifteenth Amendment, and furthermore, that it is violative of our own constitution in that it transmits the right of suffrage, by inheritance; or, to state it as perhaps Senator Morgan has intended to state it, that it is simply contrary to the spirit of our constitution, and laws—not condemned by the Fourteenth and Fifteenth Amendments, but simply contrary to the spirit of our law. Well, now, a great deal of stress has been laid upon the opinion of our two noble Senators. No one on this floor, or in the State of Alabama, has a higher regard and respect for these distingished gentlemen than I have, but as a delegate upon this floor, and in part representing the sovereignty of the people of the State of Alabama, my conscience is not bound to any degree by any expression of a Senator of the United States, who after all is the mere servant of the people whom we here represent. Now, what does Senator Morgan say? Does he say that it violates the Fifteenth Amendment. He carefully refrains from saying so. But upon what ground does he put it? Upon the ground that it transmits the right to vote by inheritance, and he puts it upon the broad ground not only that the right to vote cannot be transmitted by inheritance, but no privilege or office of any kind can be transmitted by inheritance. By the permission of the convention I will simply read Senator Morgan himself, upon that proposition. Whenever any man, no matter how distinguished he is, comes upon the floor of this convention, either in spirit, or in his bodily presence, or by letter, he subjects himself to comment and criticism as much so as if he were here as a member. I have in my hand the plan of suffrage conceived by Senator Morgan, and which was considered in the committee. It provides who shall be office-holders under the new regime, and Section 2 thereof says: "Persons who are not citizens of the United States, or who are not descended from a father and mother belonging to the white race shall not be eligible to any office under the constitution and laws of Alabama." Would any one believe that our reverend and noble Senator, after having dictated those majestic and rythmic sentences about giving any office as a privilege by transmission, would have proposed it as a perpetual thing in Alabama—not as a temporary, but as a perpetual plan, that only the descendants of white persons should enjoy an office in Alabama? Now, what do you think of conferring thirteenth century rights at the

opening of the twentieth century? That does not sound very much as though praemunire privileges and feudatory inheritances would be abolished if Senator Morgan was in charge of things in the State of Alabama.

Mr. COLEMAN: May I interrupt you a moment?

Mr. WEATHERLY: Yes sir.

Mr. COLEMAN: Do you prefer to close your remarks before or after dinner.

Mr. WEATHERLY: I believe I prefer to conclude afterwards.

Mr. DAVIS: I move that the gentleman's time be extended for half an hour.

A vote being taken the rules were suspended, and a further vote being taken the motion was carried.

Thereupon the convention adjourned.

Afternoon Session.

The convention met pursuant to adjournment, there being 131 delegates present upon the call of the roll.

The PRESIDENT: The gentleman from Jefferson, Mr. Weatherly, has the floor.

Mr. DENT: I would like to ask the gentleman from Jefferson a question.

The PRESIDENT: Will the gentleman yield?

Mr. WEATHERLY: Certainly.

Mr. DENT: I will ask the gentleman if he is not in favor of the white men holding the offices in the State of Alabama?

Mr. WEATHERLY: I am not infavor of putting such a provision in the constitution. I would not vote for a negro for office. I will tell you that.

Mr. DENT: Was the declaration which you read from Senator Morgan anything more than a declaration that the white men of Alabama should hold the offices?

Mr. WEATHERLY: That is his personal preference, that is my preference, and the personal preference of all of us. That does not alter the principle—the section proposes to give them office on account of their being descendants—gives them the privilege of holding office by descent, by inheritance. I don't object to it, Senator Morgan does—now.

The whole idea of this being the conferring of a right to vote by inheritance—well, I like to speak respectfully, but it seems to me "tommy-rot." The State of Alabama, by way of illustration, assembles the grandfather, father and son together in one group, and in recognition of the grandfather's services, and the losses, privations and sacrifices of his son and grandson on account of the war in which he was engaged, the State

confers upon you by one and the same act the right to vote, or rather continues them in the exercise of the right—refrains from taking it away from you. The opposition say that is obtaining the right of suffrage by inheritance. I do not think it is necessary to take up any further time on that part of the case. Now, as to the constitutionality of this provision, the Fifteenth Amendment confers no right of suffrage, that is conceded by the lawyers on both sides of this controversy. It has left the sovereign right of the State where it was before the adoption of the amendment, with one condition only, and that is simply a guide-post, a warning to the State, that whatever it may do in the act of conferring the suffrage upon the citizens of the State, must not so confer it as to discriminate against any part of your citizens on account of race, color or previous condition. That is the only objection. It is a warning. Now the discrimination must be on account of race. The homely illustration used by the gentleman from Jefferson, Mr. White, of the sow and the pigs deserves some sort of an answer. He speaks of building a pen around the sow and the pigs, but leaving a crack big enough for the pigs to get out, and that is a discrimination against the sow, but it is not a discrimination because she is a hog. It is a discrimination for other prudential reasons best known to the owner, who is the sovereign. What is the test of discrimination? It is not that a certain proportion of numbers are excluded or included; that is not the test, else the State of Alabama, Mr. President, would be deprived of the power to put any qualification, to hesitate at least before establishing any qualification for voters for fear that more negroes might be disfranchised than whites. She might hesitate before saying to her citizens, before you vote you must be engaged in some gainful occupation. Now, that is the lowest test, some labor by which daily bread is earned. The State might desire to make the test rest on the primal curse that man should eat his bread in the sweat of his brow. We all know that there are more whites who earn their living by their labor than negroes, and yet if the argument of the gentleman is followed to its logical conclusion you could not adopt that simple test. Neither could you adopt the property test nor the educational test, nor the character test, but we all know that we can adopt each and all of them. Then why can't you adopt the soldier test, based on service in the war? You can adopt any test which is not purely and simply and merely capricious, arbitrarily selected out of fancy and for the purpose of discrimination. Is there anything capricious or arbitrary in the soldier test? Suppose the State of Alabama had at some time been saved from destruction by a number of her citizens, by arms. Suppose those citizens had given up their property for the salvation of their

State. Suppose other great services had been rendered to the State involving sacrifice to them and to their descendants, could not the State of Alabama say to them: "In recognition of your services, and in recognition of the sacrifices and losses which you and your descendants have sustained, your State confers this political privilege upon you?" Are we stopped forever and forever more from conferring a political privilege upon any one who renders service to the State simply because, in the Province of God, the entire negro race were so situated that they could not render the same service. Why, of course there is no such purpose or meaning as that in the Fifteenth Amendment. The State of Alabama can select a group of her citizens who have entitled themselves, and their descendants who have suffered losses and sacrifices of property and educational advantage on account of those sacrifices—can select the grandfather clause and the father and the son, and that is about as far as we go in this temporary plan, and on account of these circumstances surrounding this class or group confer upon them this privilege. Now, if that group embraced the entire white population to a man and no others, and it were evident on the face of the matter that the purpose of selecting the group was not to confer the honor, but simply to exclude all others, there might be something in the argument, but the facts do not justify it. I am informed—the distinguished gentleman from Montgomery (Colonel Sanford) stated this morning that 25,000 negro troops went out from this State to serve in the Union army, and I have heard that other distinguished gentleman from Montgomery (Governor Jones) state that there are probably 5,000 negro pensioners on the lists today in Alabama, and their descendants are in Alabama today and they probably number from 15,000 to 2,000 persons of voting age who are included in the descendants' clause. The gentleman, Mr. Byars, asked yesterday if in honoring the whites who fought in the war, we did not also honor those negroes who took up arms for the Union, and my reply to that question is that we do, and that fact confirms the constitutionality and the validity of this classification; but it is further confirmed by the fact that the committee has deliberately put in another paragraph here, a good character provision, which is a simple test by which every negro can vote who ought to vote. If he should not happen to have been a soldier or the descendant of a soldier, then he comes in under the character clause; if he has a good character and has an understanding of the duties of citizenship, he can vote.

Mr. BANKS: Cannot the whites also vote under the character clause?

Mr. WEATHERLY: Yes, sir; that is true.

Mr. BANKS: Then what is the use of the descendants' clause?

Mr. WEATHERLY: Well, I think myself that the two groups overlap each other to some extent, but the primary group here—that is, the soldiers and their descendants—is a group which is selected by the State, as I have said, for the purpose of conferring a voting privilege upon her soldiers and their descendants. Now there are many many thousands—I myself could not qualify under the soldier clause, because my father, and none of my ancestors, so far as I know, served in any of the wars, and I am bound to come in under the character clause, if I get in at all.

Mr. BANKS: Will the gentleman permit a question?

Mr. WEATHERLY: Not right at this time.

Mr. BANKS: I was right nice to the gentleman.

Mr. WEATHERLY: I believe I did interrupt the gentleman twice or three times, but I would prefer to continue the thread of my argument. There are thousands and thousands of white citizens in Alabama who did not serve themselves and whose ancestors did not serve in any of these wars, so far as can be proved; and on the contrary, there are thousands of negroes who could not qualify under the character clause, who are entitled to vote under the soldier clause. I say, Mr. President, that by the good character clause, which is a simple test, and which is intended to apply to all, all the citizens of the State who happen not to have served in any war or who are not descendants of those who served in any war. That vote taken in connection with the other clause which of itself lets in many negroes, both taken together, shows that there was no purpose or intention to discriminate against the negro as a negro. It may show an intent to exclude many of those who were not entitled by reason of character or other qualification to vote; it may show an intention to select those who are best able to serve the State, and in the process may eliminate many negroes; it may select those who, by moral qualifications are entitled to the exercise of the government, but the facts in the case; the facts where by it is demonstrated that those negroes must necessarily be let in here, and let in by the equal force and pressure of the principle of classification, itself shows that there was no purpose or intent to discriminate against the negro because he is a negro. Now, Mr. President, my time is rapidly expiring. It has been said that the committee itself showed an apprehension that its child—the grandfather clause—would be short-lived, because they provided a means of supplying its place when dead. Well, all I can say to that is it is not an unusual precaution for parents to have the means at hand for supplying the places of their children. It is a wise law of nature. Now, the gentleman from Lee, General
56 Harrison, has said that you could strike out the grandfather clause and, leaving only the character clause in

the temporary plan, and the whole thing would be satisfactory. Well, isn't that an absolute demonstration that the plan with the grandfather clause in it is satisfactory, because if the character clause in its natural operation operates fairly and equally upon the citizens—if the negroes can get in under that and get in fairly, how, in the name of common sense and reason, does the grandfather clause operate against them, or abrogate or deny their rights? The gentleman's position is an unanswerable argument in favor of the constitutionality of the clause. Really, it adds because it may bring in 15,000 or 20,000 voters who, otherwise, would not vote under the character clause. Now, Mr. President, as I said, we have got to adopt a practical plan, something that the people will ratify and something that will produce the result that we wish to attain. The opponents of this measure offer us nothing practicable. The plan suggested here by Senator Morgan is a plan very simple indeed, but one which the people of Alabama could never be induced to accept. It constitutes a Board of Registrars chosen in the precinct, which Board of Registrars is to be perpetual and of absolute and unbounded discrimination. They can let in anybody they please; anybody who is fit to vote in the opinion of the Board, and there is no end to it. The scheme as proposed by the distinguished gentleman from Montgomery, Governor Jones, as I understand it, puts it in the power of the Grand Jury, a secret body, a star chamber, to select those persons whom they think should be electors, and only those who are thus selected in secret can be voted for for electors, and that is to be perpetual, as I understand it. Can any one doubt that in the course of time the worst abuse of political partisanship would fester upon that system. The poll tax provision that has been offered here, I believe by two gentlemen from Jefferson, requiring a contribution of three dollars is simple enough, it is true. The object of it is, and the object of every one of these policies, the gentleman—and I say it with all due respect to them—are a little bit pharisaical. They are bound to admit that one of the objects of their plan is to let in the bulk of the whites and to exclude the bulk of the negroes. Now the plan is no different in purpose and practice than the other, but the trouble about it is that if put into operation it would leave the majority of the counties in the Black Belt just about where they stand today, and besides it would disfranchise a lot of white people in the northern and middle parts of the state. It is not practicable. You cannot get such a plan as that adopted. I have stated all that I care to state upon this question. I believe that we ought to consider this question, not from the standpoint of what we or each of us may want or

prefer, but from the standpoint of what can be reasonably expected to be adopted, or with the view of restoring the good State of Alabama to its proper position in this Union, or with a view of putting us upon a permanent basis of political equality with our sister States, or with a view of enabling the free people of Alabama to once more consider the material and spiritual things that are good for them independent of party and unshackled by the past, and I believe the plan that has been suggested hereby this committee in the main—of course I know that some amendments are liable to be adopted—perhaps many of them—but in the main, I believe the principle will secure the things that we want.

Mr. HANDLEY (Randolph): Mr. President, I regret that it has been necessary for some of our democratic friends to criticise the democrats of the Black Belt. In this I take no interest whatever. My understanding is that the white people of the Black Belt are a unit. It is union and harmony with them, and they have succeeded in establishing white supremacy in their counties, and they have perhaps frequently saved our State elections, hence I congratulate them upon the good service they have done in the last twenty odd years. I feel that they have been of great value to the people of the State of Alabama. Now, sir, the negro vote in the Black Belt seems to be one thing and in the white counties it seems to be another thing. Let me tell you how it is in some of the white counties of Alabama and especially in my own county. We have in that county about 1,400 Democrats and we have in that county about 1,200 native born white Republicans, and we have there about 200 negroes. These Republicans are men that stand high in church and State. They help build the churches and they help build the schools, and they are good citizens. There are ministers and lawyers and doctors and mercants and farmers among them, and a great many of them are very substantial citizens and stand high in the financial world. Well, now sir, when our elections come on in Randolph, and I know of many hill counties in the State of Alabama that are in the same fix, they know their rights and they demand them. They have to have half the managers and half the clerks and the election has always been fair. There has never been a charge made in Randolph county of ballot box stuffing or unfair elections. They have been absolutely fair. A man of either party who would undertake to tamper with the ballot box would not live to see his wife and children again. We do not want or need ballot box reform, there has never been any ballot box stuffing or irregularities in that regard, all the elections have been fair, except one thing, and that is that the negro vote in our coun-

ty is for sale, and it is bought by Republicans end Democrats, all parties buy it. We have had three parties in our county, but the Populist party and the Democrats are about united now and we are together. The truth is this, that when an election comes it is a question who will get the negro vote. In that county away back yonder just after the war for three or four elections we could not do anything with the negro at all and it went Republican all the while and the reason of it was that there were a few leading negroes that thought they could hold the offices in the county, but when they found out that the Republicans would not allow them to hold the offices, why then, sir, we first bought all the leading negroes and the teachers and the preachers and when we got them, why they voted all the rest, but in the course of two or three elections, every negro in the county caught on to the trick. So every negro has to be bought, and it makes it quite expensive. Now, sir, I want to disclaim for myself the idea of buying anybody's vote. I never bought a negro's vote, but I will tell you what I did do. I contributed liberally to the campaign fund. Now, that is the condition of things up there. Many of these negroes in the first elections could be bought for a dollar apiece, after a while they got up to two dollars apiece, and they were in fine condition for a week or two before the election would come on. They did not care whether they voted Republican or Democratic. But we had a three-cornered race over there for Judge of Probate. We had an organized Democrat and a white Republican and a Populist, and, my dear sir, some of the negroes charged from five to ten dollars apiece, so it makes it hard on our people. Now we are not begging for "ballot reform" or anything of that sort, but we want to be relieved of purchasing the negroes to carry elections. I want cheaper votes.

Mr. HEFLIN (Chambers): I know you don't know anything about it of your opinion that some of the leaders cost as high as one hundred dollars?

Mr. HANDLEY: I do not remember, I never inquired closely myself, but some of the Big Ikes sold pretty well. The ballot is perfectly fair and the only impediment in our way is the purchase of these negro votes and the Republicans have a heap of money as well as the Democrats up there and they buy them. I tell you, gentlemen, that is what is the matter with our lection affairs up there. It is that point alone. The negro simply holds the balance of power, and they have to buy them.

Mr. BURNETT: May I ask the gentleman a question?

Mr. HANDLEY: Certainly. As many as you want to.

Mr. BURNETT: Don't the negro sell out twice over sometimes?

Mr. HANDLEY: Yes.

Mr. BURNETT: And you do not always get what you pay for, either, do you?

Mr. HANDLEY: No, sir; sometimes you buy one and start him to the polls and another fellow doubles your bid and he has got us both. I tell you another thing, the white Republicans in my county are just as anxious to get rid of the negro voters as the Democrats. That is my information and I have consulted with some of the leaders, and found that much out although I did not consult the masses. They don't want it because it is in the way, and it is very expensive. Now, Mr. President, when I speak of my county, I will also say that there are a great many counties between the Georgia line and the Mississippi lines among the hill counties that are in the same fix that our county is. I know that Clay county is in that fix, and possibly Cleburne and Etowah, and in fact a great many of the counties are in that fix in Alabama. My information is that if we will adopt the constitution here and don't weight it down with outside matter that nearly all the white people in these hill counties are going to vote to ratify that constitution. That is my information.

Mr. O'NEAL: Tell us about the grandfather clause.

Mr. HANDLEY: Well, I have been home two or three times since this convention met and I have been across the State to Birmingham and from Birmingham here and I have met a heap of people, and what is called the grandfather clause in the majority report is the most popular thing that there is at all. It is going to let in thousands of young men who were in the corn fields during the war, that had to work while their father was in the army and could not go to school. The fact is the schools in the rural districts were all suspended during the war and for some time after the war, and they had no opportunity. They are as good men as ever lived. I know thousands of them myself personally that cannot read and write, but they are splendid workers and pay their honest debts and they can come in under this old soldier clause. It meets the approbation of all the white people in that country so far as I know. I have never heard but one dissenting voice against it, and I trust that we will curtail our speeches here and go forward and vote upon this question.

A VOICE: We are all ready.

Mr. HANDLEY: Nearly everybody is ready to vote and we ought to vote. The country is criticising us. They think we are talking too much on other matters that belongs properly

to the legislative department and that we ought to get through and go back home. I think they are sensible about it. I am tired of it myself, lugging in all kinds of matters, Shelby county and everything else. Now, gentlemen, I did not intend to take up your time. I just wanted to tell you the condition of our county politically, and I think I have done that and I have told you the truth. We have got high-minded, honest gentlemen in our county, that are native-born Republicans and good citizens, and they know their rights and we have fair elections. The only thing we want is to bet rid of the negro vote and then we are all happy. If we will take a vote, get our constitution passed through this convention, and submit it to the people, I believe it will be carried by fifty thousand to sixty thousand majority in the State of Alabama, and I know the pulse of the white poeple, and I am glad that they will ratify. They are the crowd that I want to ratify it. I want the white people in the hill counties as well as in the Black Belt and in the Wire Grass to have a say-so in it. Now, some people object to a soldier's son or grandson voting. I don't. He votes now, he is registered and he votes now, and this article doesn't promote him at all, and I see no reason why he should not be entitled to all the privileges that any man in Alabama is entitled to. Why, sir, some men say we are afraid if you pass this thing that a few deserters would come in. Why, sir, I would rather five deserters would be wrongfully registered than that one of these young men should be cut out and not allowed to vote at all. I tell you our people would not stand anything of that sort, they could not afford to stand it, and the constitution would be defeated. I hope that all this opposition would be defeated. I hope that all this opposition will stop and let us get back. I came down here and I was put upon this Suffrage and Elections Committee. I went in there and we worked for twenty or thirty days and nights, and we finally came to a conclusion and made up our minds what it was best to do and I lined up with the majority of the committee for the best interests of Alabama. I lined up with Judge Coleman, an ex-supreme judge, who is one of the best lawyers in Alabama; I lined up with Judge Walker, an ex-supreme Judge, who is one of the best lawyers in Alabama; I lined up with O'Neal, and with my friend from Birmingham that just addressed you, and with twelve or fifteen others who are among the best lawyers in the State of Alabama and they all say that it is constitutional, and I am no lawyer, and I fell into line and I feel that this committee has done its duty. I never saw a more faithful committee, a harder working committee in my life than that was. I like to have killed myself. I remained in convention four or five hours a day and then

had to work four or five hours on that committee, and I became exhausted and had to go home, but I am all right now. I trust, gentlemen, that we will curtail our speeches. I don't want to cut anybody out that wants to speak, but I tell you at the rate we are going on we will be here at cotton-picking time, and I trust that everybody will decide to curtail their speeches, and let us get through and go home. I thank you, gentlemen of the convention.

Mr. JONES (Wilcox): Mr. President, I have been requested by some of the delegates from the Black Belt, to address the convention on the section of the article on suffrage that is now under consideration. I am a member of the Suffrage Committee, and I favor the report of the majority of that committee.

Mr. President, it will be but a short time before men of my age will have passed away. It makes but little difference to me personally whether there be a convention or not.
57 But, Mr. President, the young men of Alabama, the sons of the soldiers of Alabama, are to come after me, and Mr. President, I want to see them have a government of which they are proud. I want to see them continue in control. I want to see the descendants of the men who followed the banner of General Lee, and of the men who went with Bragg and Johnson and Hood into Tennessee and made the Tennessee and the Cumberland as classic as the Potomac and the Rappahannock—I want to see them enjoy good government in Alabama. Now, Mr. President, we are discussing the second subdivision of the fourth section—whether or not the descendants of soldiers should be permitted to vote. We differed on that in the committee. There were gentlemen, prominent lawyers, who took a different stand from the majority of the committee, but with all their diligence, with all their perseverance, they have never been able to offer a single authority here to show that this section is unconstitutional. Have they done? They have come here and said what? They have said that General Morgan, our distinguished senior Senator, is opposed to it. I deny it. Not one line in his letter says that the Fifteenth Amendment would be infringed on in any way by the adoption of that subdivision. The descendant clause, if it had been put into the permanent plan, might have been obnoxious in some way to the bill of rights. So far as the bill of rights is concerned, if the subdivision was in the permanent plan you might say it was giving a title or rather a privilege to soldiers. It does not give it in the temporary plan. It gives them only what they have. Every soldier in Alabama is entitled to vote. His descendants are entitled to vote now, and we are not giving them anything they do not already possess.

Now, Mr. President, I claim the right to address these delegates as a representative of the old Confederate soldiers, as well as my friends of the minority. I went with the State troops to Fort Morgan. I came back and went with the Confederate troops as soon as they were organized, to the front, and I stayed there until our banner was furled. I was with the distinguished gentleman, General Oates, for two or three years in Virginia. He wears a badge of honor—an empty sleeve. It is not my fault that I have not both of my sleeves empty. I was under fire as often as anybody in my command, and side by side, the Governor and I were in the hospital, he with his arm off and I with my shoulder broken by Yankee bullets, and I have as many broken bones in my body now to show my fidelity to the Confederate cause, as any man on the floor. General Oates stated that we were not treating the negro people as fairly as we ought. Haven't we treated them fairly? Didn't we feel kindly to them in the position in which they are? Are we to elevate them to equality with ourselves to show that we feel kindly towards them? To show how the colored people felt towards us and we towards them I will tell an incident that I spoke of in the committee. At the battle of Sharpsburg, I had a boy about my own age who was given to me by my father when we were about 10 years of age. When we crossed the Potomac and were going into battle to reinforce some of our troops that were driven gack, I told this boy to fill his canteel with water and to stay by an oak tree that had been left by some planter as a shade tree in his plantation, and not to leave, because if my brother, who was with me should be wounded, we were coming back to him. Mr. President, he stayed there. The line in front was driven back and one of our batteries of artillery came up near the tree and the captain ordered him to leave, thinking he was trying to desert. He would not go. He said: "My young master left me here, and I intend to stay if I lose my life." Horses and men were killed within fifty steps of where he stood. Could I forget him? I never think of this occurrence without a thrill of emotion, and yet, Mr. President, I declare to you now if he were living and in Alabama, I would say deprive him of the right of suffrage. He would not know what to do with it if he had it. I would just as soon give a toddling child a razor in his hand expecting him not to hurt himself, as to expect the negro to use the ballot and not use it to his injury and to ours.

Now, Mr. President, we might give them all the rights which we please, make no discrimination, have a poll tax of 50 cents—put them all in. You could not make them good citizens by that. God Almighty has made them different from the white man. You had just as well try to legislate a donkey into an

Arabian courser, as to legislate a negro into a white man. You cannot do it. It is impossible to do it. The distinguished gentleman who spoke yesterday afternoon, the chairman of the State Executive Committee, stated that we were sent here to have fair elections. That we were sent here for that purpose, and not to discriminate against anybody. In the name of God how can you have fair elections and put the negroes of Alabama in control of the ballot box. I ask that question. You cannot do it. Are we discriminating against them, and are we violating the Fifteenth Amendment? Not at all. Is it against the negro as a class? My friend, Captain White, spoke about the percentage, the large percentage of them who would be disfranchised, and said that it would be unjust, that it would be discriminating against them in that way. Mr. President, it is not the percentage. It is where you discriminate against the negroes as a class, as a race, and not as a percentage of any kind. That is not the meaning of the Fifteenth Amendment, and in adopting this subdivision we do not violate the constitution. Some of the gentlemen say General Pettus is opposed to the Louisiana plan, that they asked him to give his opinion, and that it was against it. Does that make him opposed to this subdivision? Does it make him say that this subdivision is unconstitutional? Not at all. Read that suffrage plank of the Louisiana constitution and you will see that it says that any man who could vote in 1867 and the descendants of any man who could vote in 1867 should be permitted to vote continuously in that State, and at that date—1867—no negro in Louisiana was entitled to vote. It was a discrimination, perhaps, against the class, although some of the ablest lawyers in the South differ with our distinguished friend, General Pettus on that, notably Mr. Semmes of New Orleans, who framed the suffrage article of the Louisiana convention, an honored kinsman of Judge Semmes of this State. John W. Daniel, one of the foremost orators statesmen and lawyers in the South, and chairman of the Suffrage Committee of the Virginia convention, has incorporated an exact copy of our majority report in the report on suffrage in Virginia. I bring his name to your attention to show you how the action of the majority is regarded by the chairman who has charge of that article in the Virginia convention.

Now, Mr. President, on one occasion, when I was quite a young man in Virginia General Buckner's Inspector-General was called home. I was appointed temporarily to fill his place. I inspected amongst others some of the soldiers from Alabama in his command. I was astonished to see how many of those soldiers could not read and could not write, or at least could not sign their names, and yet I declare to you there were no better soldiers in the Army of Northern Virgina than those

Alabamians who had patriotically gone out to defend the principles of the South on the battlefields of Virginia. And, Mr. president, they came home after the war. They had the same ambition that others of us have who were more fortunate and had more of this world's goods. They wanted to educate their children. They could not do it. I have heard some of them say, "If I had just had the means to send my children to school and give them the advantages of an education, it would have been the very joy of my life, but I didn't have the means to do it, and I had to put them to work." These children are of the same stock of the soldiers of whom I have spoken, and my right arm should be palsied before I would do anything to prevent them taking part in the government of Alabama.

Captain White went on to draw a picture of what will become of us when this matter shall go before the Supreme Court of the United States. He had one of the judges burying it, and he was thanking God that he had nothing to do with it. He was making a prediction then; I make the prediction now that there will never be a case from Alabama before the Supreme Court of the United States before this temporary plan goes out, and should a case be carried to the Supreme Court of the United States the court will say that there is not a word of it that is against the Fifteenth Amendment in any way, and Captain White will say, "I had the distinguished honor of being a member of the Suffrage Committee of the Alabama Constitutional Convention." He says another thing. He says that they are just waiting for us. That they want to get the net full and then they will draw us all ashore. Gentlemen, those of you who have read these suffrage planks of these different States will see that no two of them are alike. They may decide that one plank is wrong in one State. It would not affect Alabama. It will not affect us in any way. A case has to come up from Alabama before we are affected by it. So far as Section 19 is concerned, that there has been so much harping on in reference to our being afraid of our plan—what was it done? It was suggested because in North Carolina they put in a clause that if one part of the constitution went under all of it would go under. We do not want it that way. This constitution is framed so that if the Supreme Court of the United States should possibly declare any section or subdivision of a section unconstitutional, the balance of it will be left intact. It will stand just as if there had never been a decision of the United States Supreme Court. I do not know how to illustrate it better than by speaking of it as one of those Wernecke book cases you have all seen. They have so many units. It is a bookcase made up of sections or units, and you have just as many units as you want, and if

you take out a unit it will be a bookcase still and one that will stand and serve all the purposes you need.

Another thing, Mr. President, we in our section of the State are not circumstanced at all like the people in Randolph County. We have overwhelming numbers of negroes to contend with. When the white people there first thought of controlling the elections by what is called fraud, it was a thought they did not like to entertain for a moment, because it is against the theory of our government, but what could they do? Gentlemen, I have stood up before the Commissioners' Court that passed on accounts against the county where the Probate Judge was a Commissioner. The radical sheriff was a commissioner, the radical clerk was a commissioner, the clerk in the Probate office was a commissioner, and a black negro who could neither read nor write, was a commissioner, and made legal arguments before such court as that. Then we had, gentlemen, hordes of negroes to come down in reconstruction times, sometimes as many as 1,500 or 2,000, to the town in which I lived, and the lives of the women and children were endangered whenever they did, because if there had been a riot of any sort, they had twenty or thirty and some times 100 to one, and they were armed and the carpet-baggers had inspired them with the belief that we had wronged them; that we had kept them in slavery; that they were entitled to their rights, and that they ought to have them at any sacrifice. And there have been times more than once where we had threatened riots in my town, when I was in as much danger going out to assist in quelling them as I ever was in the front in the war between the States. And yet, gentlemen want to see us again in that condition. They talk about giving the colored man all the rights of the white people. Why, they would not be in power twenty-four hours before they would have their night meetings. They would not be in power a year before they would act just as they did in reconstruction times, and we would have it all to go through with again, and you know it and I know it.

Mr. President, some allusion was made by one of the speakers in reference to the Black Belt wanting these darkies kept on the registration list. I would ask the distinguished gentleman who has heard that statement made to come down when the convention adjourns and let me entertain him and introduce him to our people. I do not know any people in Alabama who are more refined and cultured, who stand higher morally, who are better people than the people I represent, and they have been clamoring for this convention for twenty years, and they have done it because they wanted to save the young men of the country from the necessity of participating in frauds. That is why they have done it, and when this con-

vention adjourns and you have made it so that we will have fair elections, I tell you there will be no place in Alabama where they will have fairer elections than we will have in the Black Belt. Whenever some of my friends in north Alabama quit buying negro votes (I do not blame them for it. I haven't got a word to say about that) then they can say I am better than thou art, but not until then. If I had been up there, I would, like my friend from Randolph, have run my hand in my pocket and given the campaign committee just as much as I could and said go on and get our people in control of the offices. And gentlemen of the convention, the young men are not to blame for the conditions that are upon us. They were advised by older heads. I never was an inspector of an election. Nobody ever expected me to be one, but I thought it was right for the white people of the Black Belt to elect white people to office and I think now it was right, and I will think it was right the longest day the Lord may spare my life. Fraud, if you will call it so, was the only way left us to prevent the negroes and carpet-baggers from filling our offices. There was an old gentleman who illustrated it to me in this way. He said: "We have got to carry these elections. There is nothing else or we will have to move out of the country. We will have to kill them or control them. It is a case of taking
58 the smallpox or taking the measles, and I believe I will take the measles." That is the way he regarded it and that is the way it is regarded with us. We do not like the necessity for it, but we had to resort to it or else give up white civilization in south Alabama. We had to do it or leave the country and we did not intend to do that. It was our country, and we intended to stay there as long as we pleased, and to evade if we could the Fifteenth Amendment in order to accomplish it, we have done it, but we are tired of it, and we beg the convention not to do anything that will throw any impediment in the way of giving us such a suffrage plank as will insure white civilization in Alabama after we have gone and our children have come after us. That is what we want.

A good deal has been said about General Morgan's views, a great deal has been said. I am the last man on this floor who would say anything about the senior Senator from Alabama. He is my friend, Mr. President, and I honor him. I honor him not only as a friend, but I regard him as one of the most learned men in the whole country. He is the peer of any man in the United States Senate. He is the superior in information to any man with whom I am acquainted, but when you analyze what he has said you will find that he has never claimed that this section is in conflict with the Fifteenth

Amendment. He has never said that we did not have the authority to do it—not once—and none of these gentlemen here have given us any authority to show us it would be against the Fifteenth Amendment. Their whole course has been to indulge in mere matters of opinion. Why they try to scare us with Mark Hanna. Captain White said something about Mark Hanna. I do not think any of you are afraid of Mark Hanna, but they talk about what Mark Hanna is going to do. What is he going to do? Let him go to the Congress of the United States and say that the State of Alabama has taken away the right of voting from some of these people, and say we are going to cut down her representation. Suppose he succeded in doing it, what would be the result? We might, perhaps, lose two members of Congress. Now, gentlemen of the convention, Alabama could afford to do that rather than have our own State under the control of the negroes. (Applause.) Yes, I believe I would rather lose them all, as my friend from Dallas says, but we would not have to do that. If the worst should come to the worst, that is all that would be required. My friend, General Harrison, got on a big scare and thought they were going to reconstruct us. They will never reconstruct Alabama while there is a man living who is in this convention. I make that prediction. They attempted it once in 1876 or '77, I believe it was. I know I was subpoenaed to Washington before the Senate Committee as a witness. We were detained there in Washington for a month. They had two of their ablest men who were representing the Republican Senate. We had one of our weakest men—a man from an adjoining State—who represented the Democrats. The Republicans had carpet-baggers as witnesses and our Democratic Senator had Democrats to go up there to Washington, and we were examined and if there had ever been a time in the history of our State, with all the falsehoods told by the Republicans and carpet-baggers, they would have reconstructed us then. They didn't do it then and they never will do it. The northern people at that time did not understand conditions here. There was an old man named Stroback. I do not know what ever became of him, but he was examined as a witness for the Republicans, and he spoke in broken English and told some of the most outrageous tales on the white people down here, and after the meeting adjourned three or four of us were walking along the streets with Senator Cameron, one of the Senators who represented the Republicans, and he said to us, "You are too intolerant in the South. You do not allow these men any social privileges, and you do not invite them to your homes. You do not treat them like men."

Mr. REESE: Will the gentleman yield to me for the purpose of making a motion?

Mr. JONES: Yes sir.

Mr. REESE: I move that the time of the gentleman be extended thirty minutes.

The motion was put and carried.

Mr. JONES: I thank the gentlemen of the convention, but I will be through in a minute. I told Senator Cameron "That Strobach was a fair sample of the carpet-bagger in Alabama. If he were to go to your town how often would he be at your table dining? How often would he be a guest at your home? We think we are as good as you are. We are not Senators, but we are honest, straightforward southern people. We have our own views and we are honorable in our dealings with our fellowmen just as much so as you could be. We have as good a lineage as you have and have as good associations as you have and with the best people on earth, the people of Alabama. We do not invite them to our homes and we do not expect that you would do it. In fact, we know you would not do it." And he would not have done it. Now there is altogether a different sentiment. The Spanish war has brought about a change. The Republican party recognize it. They have had a great deal of trouble in dealing with the Cubans and Filipinos. They know what character of men they have to deal with when they go outside of the Caucasian race. Thousands and thousands of them who were our enemies are in full sympathy with us now. And I make the prediction in answer to my friend, the distinguished gentleman from Lee that there will never be reconstruction of the State of Alabama.

Mr. JONES (Montgomery): I never spoke with a profounder sense of the responsibility which rests upon me than now. What we see in this hall illustrates what is being thought by the people all over the State, and how the people of Alabama, all moved with one ptriotic purpose, differ widely as to means to that end and as to what is the wisest and best for the happiness and glory of this State. I am proud that the same blood flows in my veins that flows in the veins of the distinguished gentleman (Mr. Jones of Wilcox), who has just taken his seat. He is honest, he is patriotic, he is faithful, he is learned, and he is thoroughly satisfied in his mind that the plan proposed by this committee is wise and constitutional. I hope I am as devoted to the interests of my people, as patriotic, and as loyal in my desire to serve the people of the whole State, and the people of the section from which I come, as my distinguished kinsman—and yet we differ widely.

One significant lesson of such difference is that we should be tolerant with opposing views upon this question. We are

speaking here of questions, and deciding questions, which may return to vex our children, and our children's children for a hundred years to come. We are speaking here, not merely to those in sound of our voices, but to others, "who throng in become partakers of the counsels of State"—to 75,000,000 American citizens; for we are creating today an electorate which is to take part in their elections, an electorate which in a degree wields and controls in some measure the destinies of this country. These millions have an interest in it, a right decision; they take an interest in it. I believe it was Solon who said that in framing a government for the Athenians, he thought when he looked back at its progress and downfall, that he had taken more account of the prejudices of his people than he did for framing a government to inure their hapipness. Let us avoid his experience.

This is a solemn juncture in the history, not only of Alabama, but of this country, Mississippi has acted, Louisiana has acted, South Carolina has acted, North Carolina has acted, Virginia is acting, Alabama is acting. The eyes of the world are upon us. It should warn us then, Mr. President, to go slowly and deliberately, to discuss conscientiously every objection which may be urged to any plan that we may propose, and to be sure that the plan which we adopt is wisest and best. There is not a man within the sound of my voice who will not answer in his own mind, if not to the world, if you ask him the question, what is your purpose in this plan of suffrage—that it is my purpose, as far as I can constitutionally, to strike down the suffrage of the black race, and uphold the suffrage of the white race. They have this purpose because they believe it the wisest and best, not only for the country, but for both races. There comes another division. Some gentlemen have said upon this floor that the Constitution of the United States, so far as they were concerned, should not shackle or bind their action; that they wished to put the defiant declaration in the constitution that no negro should vote; that they wanted to lock horns with the Fifteenth Amendment and trample it down forever. Now I take it that no serious minded delegate, no delegate devoted to the welfare of his country, no delegate who wishes to be guided, if he knows it, solely by the dictates of his conscience, wants to adopt any plan which deliberately wars on the supreme law, and support one which he believes is in violation of the Constitution of the United States. My words and arguments are not for those who would intentionally violate the constitution. There is a wide difference of opinion among conservative members of this convention whether or not the plan proposed is constitutional, whether it infringes the Constitution of the United States or not. Making the best use I can of the faculties God has given me, I have come to the opinion,

from my own researches, and from the application of what I believe to be the principles of the law, that if we leave in this plan the descendant clause, we make our whole plan void, and it may embark our people in untold trouble.

Now, suppose it is unconstitutional. If it is, let us see upon what voyage we embark the people of Alabama. First you are challenged through the courts of your own State; for the Constitution of the United States is the supreme law of the land, anything in the constitution of any State to the contrary notwithstanding, and the judges of your State courts are bound by it. Next, you bring into play the judicial power of the United States which is invoked by appealing from the highest court of the State to the Supreme Court of the United States. Next, you bring into play the power of the House of Representatives, as the judge of the qualifications and election of its own members. Next, you may bring into play the political power of the United States, embodied in the two Houses of Congress, who by the constitution, have the power to enforce the Fifteenth Amendment by "appropriate legislation," if it has been violated—and they are the judges of that, and as of the political remedies to be applied.

Ought delegates to be blamed, then, if we ask this convention to carefully consider the Fifteenth Amendment, and to hear us. I will not take up the time of the convention in reading law books. I wish to state some principles which I think none of the distinguished lawyers on the other side will gainsay. One of them is this, you cannot do indirectly, unlawfully, what you cannot do lawfully, directly. Another is that in whatever phrases you may couch the language of a statute, its ordinary and practical results, as applied to the subject matter with which it deals, determines whether it is constitutional or not. There is no necromancy in the law by which you can put up a curtain between your words and your purposes, because your words may deny your purposes. When this section goes before the courts, it will be taken up in view of its known history, in view of facts known to all men in Alabama, known of all men in the South, all men in the United States, and the purpose underlying it, and by these tests, not by our language and the results which must flow from its execution, will be determined whether the plan will be upheld, or whether it will go down. If the courts or Congress should be of the opinion that the purpose was unlawful and would be the practical operation, that purpose, however veiled, whether in one section or two sections, whether the conjunctive or is used or not, would be arrested and held for naught. If the practical operation is to subject black citizens to one test and white citizens to another—to put on whites, or the great bulk of them by classification—to which, being rested on white ancestry, the

negro could never attain—and to "abridge" or hinder the negro by other qualifications to which the great bulk of the whites are not subjected, then these sections, they standing alone, might be valid, would be treated as part and parcel of one constitutional utterance designed to evade the Constitution of the United States, and as mere adjuncts of one unlawful purpose, and the whole fabric would fall.

I wish to call attention, as illustrating the principle to which I have adverted, to what is known as the Chinese Queue case. The people of the Pacific slope were greatly troubled with the Chinaman. It was hard to collect fines from him, even when put in prison. They passed, or rather the supervisors of San Francisco passed, an ordinance that any prisoner confined in jail who did not pay his fine, should have his hair cropped, I think within an inch and a half of his skull. On its face, the ordinance applied to the white man and the Mongolian alike. There was no distinction whatever in the words of the ordinance, but the Chinaman has a queue, while the white man has not. The Chinaman is superstitious about it. He believes if his queue is cut off, it affects the repose of his soul in the hereafter. A Chinaman was put in jail and failed to pay his fine. His hair was cut to within an inch and a half of his skull, and, of course, that took off his queue. He sued the supervisors in the Circuit Court of the United States, presided over by eminent Justice Field of the United States Supreme Court, Judge Sawyer and some other judge. They delivered an opinion which has often been quoted with approval since in the courts of the country. I ask particular attention to one paragraph. I read from Kow vs. Nunan, 5th Sawyer, p. 560. Here is what Judge Field says:

"The class character of this legislation is none the less manifest because of the general terms in which it is expressed. The statements of supervisors in debate on the passage of the ordinance cannot, it is true, be resorted to for the purpose of explaining the meaning of the terms used; but they can be resorted to for the purpose of ascertaining the general ob-
58 ject of the legislation proposed, and the mischief sought to be remedied. Besides we cannot shut our eyes to matters of public notoriety and general cognizance. When we take our seats on the bench we are not struck with blindness, and forbidden to know as judges what we see as men; and where an ordinance, though general in its terms, only operates upon a special race, sect or class it being universally understood that it is to be enforced only against that race, sect or class, we may justly conclude that it was the intention of the body adopting it that it should only have such operation, and treat it accordingly. We may take notice of the limitation given to the general terms of an ordinance by its practical

construction as a fact in its history, as we do in some cases that a law has practically become obsolete. If this were not so, the most important provisions of the constitution, intended for the security of personal rights, would, by the general terms of an enactment, often be evaded and practically annulled."

Judge Feilds lays down in that case the doctrine which the Supreme Court of the United States has often laid down, that it will go behind the general language, take up the operation of the statute, step by step, with its known purpose, and then, no matter how general the language is, whether it is the act of a State, in its sovereign capacity, or the acts of the officers of the State, it will test the constitutionality of that law by its practical operation. If that effects a forbidden purpose, the law is void. Here, then, is the principle we have to apply. What is it to which it is to be applied? The "right of citizens of the United States"—not the right of the white citizens, or black citizens, but the right of any citizen of the United States —to vote, shall not be denied. Does the language stop there? No. "Or abridged by the United States, or any State, on account of race, color or previous condition of servitude." You shall not only not deny it, but you shall not lessen it; shall not cut it shorter, you shall not put difficulties in the way of it. You must not deny it, or abridge the right on account of "race, color or previous condition of servitude." When we scan this language, what do we find is its inevitable scope, as applied to the power of the State in dealing with suffrage? Its first inevitable consequence is a command to the State. You must not deal with citizens of a race as a race. You must not deal with a citizen according to the race that he belongs to, but you must deal with him man for man as an individual. Now what are "qualifications?" The Supreme Court of the United States in 5th Wallace, 319, has defined what is meant by the term. This was done in the celebrated Cummings case, where a Catholic Priest was indicated because he would not take the oath that he had not been in sympathy with the people of the South during the late war. Here is the definition of qualification: "Any natural endowment or acquirement which fits a person for a place or employment, or enables him to sustain any character with success." Now, the State, when it goes to cations, but qualifications—must shut its eyes, according to deal with suffrage, and frames its qualifications—not classifi- the constitution, and put forth these qualifications blindly, and they must be such that every citizen of the United States may be able to attain to them at least so far as the law stands. You cannot pick out particular classes to which other men can never belong and say that that is a "qualification" for suffrage. You cannot group men by name, or by race, and say that is a "qualification" for suffrage, and that

every man who has not that "qualification" is disfranchised. You are compelled by the fundamental law of the land to lay down conditions which it is possible for every man with whom you are dealing to attain, and if he attains them, then to admit him to citizenship.

I am not here to say that the law demands absolute equality in the number of citizens of the different races who are admitted to citizenship on account of the "qualifications" which the State imposes as conditions for the privilege of suffrage. For instance, if you had a property qualification, it would be no legal objection that it let in more of one race than another, because the qualification applies alike to each and every man, no matter what is his race and all can attain to it, but when you go to make "qualifications" you must make qualifications that can be attained by men of each race, not classifications to which one race only can attain. Now I take it, Mr. President, that those propositions will not be seriously disputed. Then what have we in this temporary plan? We must take the conditions that exist here.

Mr. SMITH (Mobile): May I ask the gentleman a question?

Mr. JONES: If it is not to be taken out of my time.

Mr. SMITH: Do I understand those propositions are applicable only to the Fifteenth Amendment, or are they general propositions of law?

Mr. JONES: I was speaking more particularly with reference to the Fifteenth Amendment. Without the Fifteenth Amendment the State could do what it pleased in the way of classifications called "qualifications." Let us see the problem we have in hand. We start out in Section 1: "Every male citizen of this State who is a citizen of the United States, (and every man born under the jurisdiction, even a woman, so far as that is concerned, is a citizen), "every male citizen 21 years old or upwards, not laboring under any of the disabilities named in this article and possessing the qualifications required by it."

Mr. FITTS: I move that the rules of this convention be suspended and that the time of the gentleman from Montgomery be extended for thirty minutes, beyond the time allowed by the rules.

Mr. HEFLIN (Chambers): I would like to amend that motion so as to extend the time until 6 o'clock.

Mr. FITTS: I accept the amendment.

The motion was carried and the rules were suspended.

Mr. JONES: I thank the convention. Now we start out with every male citizen, and say he shall vote if he possesses one of three qualifications; first, he shall have been himself a soldier

in the enumerated wars. Second, the lawful descendant of some soldier in the enumerated wars; and, third, a person of good character who understands the duties and obligations of citizenship under a republican form of government. These are the qualifications, and the qualifications must approximately as a whole, bear alike upon all the citizens of this State. I do not wish to be misunderstood in this proposition. I do not say it is an objection to qualifications that they do not produce a given ratio of votes from each race, according to the number of the whole as for example, one hundred and fifty thousand white voters and only one hundred thousand black voters. I do say there must me substantially approximations, and that the results of these "qualifications" which are different and operate differently upon the voters of each race must be such that the court can discover from them a fair intent not to discriminate against any citizen, on account of race, color or previous condition.

Mr. DE GRAFFENREID: Can I ask the gentleman a question?

Mr. JONES: Yes, sir.

Mr. DE GRAFFENREID: Suppose, for instance the State of North Dakota has no negroes in it, and no one but white people live there; would it be lawful for the State of North Dakota to adopt in its constitution the provision contained in the temporary plan that you have just reached?

Mr. JONES: I think it would be a practical abstraction, as the court would say no negroes were there to be operated upon. It would be perfectly apparent from the natural operation of the statute that they had no intention or design by such laws to exclude people from suffrage who were not there to be affected by it, on account of race, etc. I think it depends largely upon the character of the population.

Mr. DE GRAFFENREID: The State of North Dakota then can do things, if it has no negroes, that Alabama cannot do?

Mr. JONES: Exactly, because it depends upon the state of facts existing, whether laws are designed to unlawfully strike down a race and whether your laws will operate fairly to disfranchise people of one race and enfranchise people of another. I am very glad my friend asked me the question, because it illustrates the point the Supreme Court of the United States has made repeatedly, that it is not the language of the statute, but it is the ordinary and natural operation, which is the test. Of course, it would be an abstract question where there were no negroes. There would be nobody to be affected, and the Supreme Court would say it is manifest that it is not directed at any race, because there is only one race there, and upon that one it bears fairly on all—on each citizen of the United States.

Mr. WALKER: I would like to ask the gentleman a question? I will ask if he would regard a provision in the constitution of California prohibiting natives of China from voting as unconstitutional?

Mr. JONES: They are not citizens of the United States?

Mr. WALKER: They may be naturalized though.

Mr. JONES: If they were naturalized, I would say they fell under the Fifteenth Amendment.

Mr. OATES: But the laws now do not allow them to be naturalized.

Mr. JONES: I understand that.

Mr. WALKER: It is not a Chinaman, not a Mongolian, but a native of China, white, black, or any other color?

Mr. JONES: If he is a citizen of the United States, if he is naturalized, he cannot be disfranchised on account of his race. A Mongolian cannot become a citizen of the United States under our laws.

Mr. WALKER: That is on account of his race, something over which he has no control.

Mr. JONES: It makes no difference, if he is a citizen of the United States. This provision is against the abridging of rights of citizens of the United States, and until a man gets in that status the Fifteenth Amendment cannot apply to him.

Now, let us see what we have, I think we have fifty-five per cent. of white and forty-five per cent. of black voters. Owing to a great evil, the sovereign people say that we want to change that suffrage; we want to disfranchise some of our voters, and the Constitution of the United States steps in and says you may do that just as much as you want to, provided you do not do it on account of race, color or previous condition of servitude. Now bear that in mind. Then we have in Alabama about fiifty-five per cent. of white voters and forty-five per cent. of black voters. What do we do, when we translate it into English? Not in the learned tongue of the committee, but when we translate it into cold facts. We take from eighty-five to ninety-five per cent. of the whites, and by means, not of fixing any qualifications, fixing conditions to which if any citizen attain they can enjoy the right of suffrage, but by arbitrary classification we say owing to accidental circumstances, that you were born of such parents, all of whom were of the white race, we will not subject you, this ninety-five per
60 cent. of whites, to the test that is required of other people, and all of the other races, except the few who have been soldiers. Don't we do that? Is not that the practical effect of what we are doing, are not we running square in the teeth of the prohibition in a practical way? The Supreme Court

of the United States has often said, and in its later cases, too, that the Fifteenth Amendment intended, so far as political rights were secured thereby to the negro, that he should be on an absolute equality with the white man in the assertion of those political rights. Now one of those political rights of a man who is a citizen by law of the State and of the United States, is not to be discriminated against in the test by which it will be determined whether he is to remain longer a citizen of the State. That cannot be denied. Then, what else do you do? We say here are some soldiers, or rather descendants of soldiers, nearly all of whom come from white parentage, because the negro at that time was not a soldier. He never got to be a soldier until 1863 or 4, when the Federals armed him.

Mr. SANFORD (Montgomery): I desire to correct an error in your history.

Mr. JONES (Montgomery): Mr. President, my history is correct. There were a few soldiers in the Revolutionary war who were negroes, just like the negroes mentioned by the gentleman from Wilcox, and the gentleman from Montgomery, and others of us, but the negro as a race was not a soldier in this country until 1862 or 3, when he was enlisted in the Federal army. Now we have a few descendants of these soldiers. That is all we have done with that race up to that time as soldiers.

Mr. OATES (Montgomery): I do not want to interrupt my colleague, but it was after the emancipation went into effect, January 1st, 1863, that they were enlisted.

Mr. JONES (Montgomery): Yes, sir, and after that time the Confederate States passed an act enlisting them, too, but the negro up to that time had never been a soldier in the Civil War. Now you take the few negroes and their descendants, and let them go under the descandant clause, and take the bulk of the white people and put them into the suffrage without subjecting them to the other qualification, while you subject the bulk of the negroes to a different test. Now is not that subjecting the bulk of the white people to one test, that is easy, or rather is not a test at all, and subjecting the bulk of black people to another and different, and it may be a harder test, and that, too, for the purpose of enfranchising one race and disfranchising the other? If I did not believe that was the purpose, and did not believe that was the result, and that thereby this plan of suffrage becomes unconstitutional, I would not stand here and raise my voice against this part of the report of this committee, although I differ so strongly with them about this and other features. I submit, Mr. President, that this plan, as now framed, is unconstitutional, because the natural, ordinary result from its operation is that one test is

applied to a majority of the white people, and another test is applied to the majority of the black people, and that too in view of our known history, our platform and our intention to enfranchise the one and disfranchise the other! But it is said that these are distinctive clauses, that it is soldiers, or descendants, or persons of good character, and that if you wipe out one, that the other will remain and be upheld. Well, there are cases where that may be done; but whenever the court comes to the conclusion that the unconstitutional provision is put in there as an addition or to compensate for some other, and that they are all designed and intended as part of one harmonious whole to effect an unlawful purpose, then when you strike down one, you strike down all. Under this plan the descendants of soldiers become permanently vested with the right of suffrage, and pass from the temporary registration into the permanent registration. They are not required to register any more except when they change their residence. They are made citizens irrevocable, and that, too, by a test which the other race, in the nature of things, can never come up to, because they cannot be white men or the descendants of white men. How is it possible for this act to be constitutional, in view of these inevitable results?

It is a pleasing thing, and it does a man's heart good to let it pulsate fully with the passions and pride of his race; but a man who is trusted by his people, owes no higher duty, if his conscience gives him an opinion different from them, to stand up and maintain those opinions, when deliberating upon laws for them, though he be trampled down in the dust.

I remember coming into this hall, in 1861, when a mere lad. William M. Brooks was where the chairman now is, and William L. Yancey had thrilled this hall, as no other living man had ever thrilled it by his eloquence. The pulses of the people were hot; revolution was in the air. Yet, there were gentlemen, grave men, "wise in their day and generation," who, when the people begged them to pause and wait, when they were told that Virginia was trying to call a convention of the States, and asked to delay that other States might co-operate, who were told that we might lose, answered triumphantly and confidently that they would "drink all the blood that was shed in the war." It was not ninety days after that when the gun boomed out at Sumter, and two nations rose on this continent, and the most terrible war known to modern times devasted our dear land, and we were prostrate in the dust. To this day we have not fully recovered from some of its effects, because we are here discussing the aftermath of that great war, in the conditions which confront us today, which constitute the chief motive and reason which called this convention. Gentlemen on the other side are as confident now as they were that no harm would come to the republic then.

There is not a man, I think, in this convention who loves the Confederate soldier more than I. When I was a lad I became one, and when they stacked arms at Appomatox I took my parole there; but with all my love for them, I do not believe we should, even if it were not unconstitutional, introduce into the jurisprudence of our country the doctrine that a man's son ought to vote because his father made a good soldier. I have many reasons for that opinion. I fear, Mr. President, when we do that, we put it in the power of Congress to say that we do not have a republican form of government; and they are the judges, and the sole judges, of the evil and the remedy. What it may bring forth in the future, I will not prophesy.

Mr. ROBINSON: Would not the same rule apply to the soldiers as it does to the descendants, and would not that be unconstitutional also?

Mr. JONES (Montgomery): If the intent and purpose of the plan, taken as a whole, as shown by inevitable results, had that effect, then it would be. You can put in some descendants, you might put in some soldiers; but if the natural and proximate result of the plan, in its actual operation, was such that it was only a device to test one class of citizens by one rule, and another class by another—and let in the favored, and obstruct the disfavored, then it is my opinion that the Fifteenth Amendment would make it unconstitutional. I believe, Mr President, that the courts and Congress in deference to the opinion of civilized mankind, would uphold a provision in this constitution that the soldiers themselves, when we include all soldiers, Federal, Confederate and negroes, might be created electors without submitting them to the same tests as other citizens, and that although there might be a disparity in the numbers of each race thus admitted, it would not violate the whole statute if the other provisions were so framed as to operate justly on the great majority of citizens of the different races—not subjecting them to difficult tests, because of race, etc. I am unwell, and cannot well stand any longer. I will not detain the convention. I thank you very much for your attention.

Mr. CUNNINGHAM: I move that this convention do now adjourn.

There were expressions of dissent.

Mr. JONES (Montgomery): If I may be permitted to make a suggestion to the convention, I understand that the gentleman from Calhoun will speak next, and it will chop up his speech very much to have him start and speak for fifteen minutes, and then adjourn, and I think it will save time and be more agreeable to him to speak in the morning.

Mr. PILLANS: Before the gentleman from Montgomery finally takes his seat, I desire, in the interest of historical accuracy, to ask him a question in regard to the matter of negro troops in the Federal army. Did I understand the gentleman as assuming, or admitting on the suggestion of the other gentleman from Montgomery, that there were no negro soldiers enlisted in the Federal army until after January, 1865?

Mr. JONES (Montgomery): I think I said 1863.

Mr. PILLANS: I thought you did, but I also thought you assumed the correctness of the suggestion of the other gentleman from Montgomery, and only desired to call your attention to the fact that the exchange of prisoners ceased as the result of a conflict between the Confederate and Federal authorities growing out of the refusal of the Confederate authorities to recognize the negro as a soldier during the war, and that was at a much earlier period than 1865.

Mr. JONES (Montgomery): I think I said 1863. I know I fought against negro soldiers in 1864.

Thereupon the convention adjourned.

Official Report of the Proceedings of the Constitutional Convention of Alabama.

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Fifty-fifth Day.

MONTGOMERY, ALA., FRIDAY, *July* 26, 1901.

The convention met pursuant to adjournment, was called to order by the President, and opened with prayer.

The PRESIDENT pro tem: The special order is the continuing order of the report of the Committee on Suffrage and Elections, Section 4, and the minority report thereto.

Mr. OATES: I rise for the purpose of correcting a statement I made on yesterday, when my colleague from Montgomery (Gov. Jones) was addressing the convention. He seemed to be at a loss for the time at which the Federal government began the enlistment of negroes as soldiers, and I rose and stated that it was after President Lincoln's proclamation of emancipation went into operation, the first day of January, 1863, but by a slip of the tongue I said 1865, or was so understood. I desire to further state that when that went into operation the enlistment began, but it was not at all consummated in Alabama until the fall of Mobile, which went into the hands of the Federal authorities late in the spring of 1865. I merely wanted to correct the statement of the historic fact.

The chair recognized the gentleman from Calhoun (Mr. Knox).

Mr. SAMFORD (Pike): I have observed, Mr. President, that in extending the time of speakers on this question so far, that we

have had to interrupt them in the midst of their argument, and I therefore move that the rules be suspended, before the argument begins, and that the gentleman's time be extended until he can complete his remarks.

Upon a vote being taken the motion was carried.

Mr. President and Gentlemen of the Convention:

The sudden enfranchisement of a large mass of ignorant voters, just emerged from slavery, by the adoption of the Fifteenth Amendment, has been resognized almost everywhere as the mistake of the nineteenth century. The consequent evils that we have suffered, in common with other States, need not be dwelt upon. They go to make the history of reconstruction in the South, and represent the darkest days through which our people have ever, and I trust will ever be called upon to pass.

The practical question, Mr. President, is what can we do, within the limits imposed by the Federal constitution to ameliorate and remove the unfortunate conditions which the creation of an ignorant, vicious and incompetent electorate has brought upon us.

The distinguished gentleman from Montgomery (Mr. Jones) who spoke in opposition to the majority report of the committee laid down some principles which he said were fundamental, and upon which he assumed there would be no dispute among the lawyers in the convention. He read from the case of Au Kow vs. Noonan. He said he thought there would be no dispute among the lawyers in the convention as to the principles which would govern in the case.

I grant the proposition so far as the Chinese queue case cited by him is concerned. The distinguished gentleman admitted upon this floor that the Fourteenth Amendment had no effect upon the right of suffrage, and if the case stood upon the Fourteenth Amendment that the State would have the absolute right to disfranchise the negro. In the light of this admission, there need be no dispute between us. The Au Kow case arose under the Fourteenth Amendment. The personal right which was invaded there was protected by the terms of the Fourteenth Amendment, but this does not involve or affect the right of suffrage.

Another proposition which the gentleman laid down, and upon which he said there would be no dispute, was that the State had no right to impose a condition upon suffrage which would not apply alike to all citizens—that is to say, to quote him more accurately—that the State had no right to impose a condition on suffrage to which all citizens could not attain, or which was not within the reach of all citizens! This, I understand, Mr. President, to be the proposition asserted in the minority report where they say: "We submit that the test re-

quired is not a rule or condition to which all citizens similarly situated, may conform. This, we understand, from the decision of the United States Supreme Court, is necessary to make it valid." I would inquire of the distinguished gentleman from Jefferson, who discussed this question if that is the proposition of the minority, and if I am correct in my interpretation of that clause in the report?

Mr. WHITE: I suppose the gentleman can get quite as good an answer from the majority report, because they assert the same proposition.

Mr. KNOX: Where?

Mr. WHITE: On the first page of the report they say this: "We are of the opinion that the Fifteenth Amendment of the Constitution of the United States does not interfere with the sovereign right of the State to prescribe the qualifications of voters, further than to prohibit discrimination on account of "race, color or previous condition of servitude," and this limitation in no way interferes with the sovereign power of the State to fix a standard of fitness, applicable to all alike."

Mr. KNOX: Oh. The proposition asserted by the majority of the committee is that the qualifications which they prescribe are applicable to all alike, because every man who is a soldier is included, and this is a provision which applies to all citizens alike. Every man who is a soldier, or the descendant of a soldier whether white or black, comes within the provision, and the privilege granted by the report of the majority committee. Every man who is a man of good character, comes within the provision of the report of the majority committee, but the proposition which the minority here assert, and which the distinguished gentleman from Montgomery argued yesterday, is that the State is without the power to set apart a class of citizens because they were soldiers, and set apart another class because they are the children of soldiers, because all citizens could not attain or reach that qualification, and the qualification must be such as that all citizens might attain. Does the distinguished gentleman from Jefferson deny that proposition?

Mr. WHITE: I think that is right.

Mr. KNOX: You think that it right. That is the point I wanted to come to, because I wanted to understand the minority report.

Now, then, I deny that proposition, and I submit to this convention that the whole argument upon it is built upon a false premises. The only two authorities which the gentleman from Montgomery has cited is this Chinese queue case, which arose under the Fourteenth Amendment, and the Catholic Priest case, which arose under the declaration of rights. What has

the declaration of rights to do with the power of a State to regulate the right of suffrage: "That no State can pass an ex-post facto law." That is the Chinese queue case, and the proposition of the decision of the court is asserted in this head note, "an ex-post facto law," is one which imposes punishment for an act which was not punishable at the time it was committed. Here a Catholic Priest was being proceeded against under the provisions of the constitution that were retroactive, that operated retrospectively, "or imposes additional punishment to that then prescribed, or changes the rule of evidence, by which less or different evidence would be sufficient to convict than was then required."

The proposition here asserted rests upon a false premises, for it is not true that the State cannot, in the exercise of its sovereign powers, prescribe a condition to suffrage which is not within the reach of every class of her citizens. Every State in the Union almost, Mr. President, confines the right to vote to male citizens, and yet women are just as much citizens within the meaning and protection of the constitution as are men. And yet, constitutional provisions which limit the right to vote to males and exclude females are not unconstitutional. This was directly decided in the case of Minor vs. Happersett (21 Wall, 162), where the opinion of the court is thus stated in the head-note.

"The Constitution of the United States does not confer the right of suffrage upon any one and the constitution and laws of the several States which commit that important trust to men alone, are not necessarily void."

Upon the same principle, I contend that a sovereign State has a right to say that any class of citizens, that those who have fought the battles of the State, those who have risked their lives in the defense of the State, may be admitted to the right of suffrage, and the same power which will enable the State to confer this right upon the soldier will enable the State to confer the right upon the son of the soldier. It is not a discrimination on account of race, color or previous condition of servitude, but a recognition, on the part of the State, of services rendered in its behalf.

What are the powers of the State in this matter of constitutional reform? A great many seems to go upon the principle that the State has no power in this matter except what it secures by grace of the Federal Government. Mr. President, this opinion is founded upon a misconception of our Government. The State is not the creature of the Federal Government, but the Federal government is the creature of the States. The Federal Government is a government of limited powers. It possesses no power except such as has been granted by the States. The right of suffrage is not given by the Federal law

or constitution. It comes alone from the State. Save in the matter of discrimination against the voter on account of his race, color or previous condition of servitude, which is a limitation not imposed by the Federal Government, but which the States, by the adoption of the Fifteenth Amendment, imposed upon themselves the State may impose any condition upon the exercise of the right of suffrage which it chooses, and the validity of these conditions, in my judgment, are not controlled by the circumstances as to whether they are reasonable or unreasonable. The State is sovereign. Sovereigns may, if they choose, be capricious. They may be unjust. They may be unreasonable. Mr. Jameson, in his work on constittuional conventions, says:

"Which, then, is the true theory of suffrage? Is its exercise that of a natural right, or is it merely the performance of a duty resting simply upon positive law? * * * Suffrage considered as a natural right, would be universal suffrage; and universal suffrage is an utter impracticability. For, admitting the force of the argument which attributed, by the law of nature, an equal right to vote to every citizen, nevertheless, when the statesman comes practically to establish the right, insuperable difficulties arise. Some are too weak, or too young, to exercise it at all, or with the requisite intelligence. A line must be somewhere drawn. Where is shall be drawn is a question of expediency to be determined by the existing government, like any other measure involving mixed questions of justice and of policy. The principle of exclusion being once established, whether it shall be confined to consideration of age, or to be extended to those of sex or social conditions, is a matter of practical detail, to be settled by the political power. * * * Thus viewed, it is evident that in the present condition of mankind, in which, for the public good, the principle of exclusion must be exercised, there is no such thing as right of suffrage. Suffrage is not a right at all; it is a duty, a trust, enjoined upon, or committed to, some citizens and not to others." Jameson on constitutional conventions, page 329 et seq.

The Fourteenth Amendment does not confer the right to vote, nor is the right conferred by the Fifteenth Amendment. The Fifteenth Amendment operates only as a limitation upon the right of the State to discriminate upon the specified grounds of "race, color or previous condition of servitude." It was so held by the Supreme Court of the United States in the case of Minor vs. Happersett (21 Wall. 178) and United States against Reese et al. (92 U. S. 214). This is made exceedingly clear in the case of the United States vs. Cruikshank (92 U. S. 555). In this case, the court, speaking by Mr. Chief Justice Waite, says:

"In Minor vs. Happersett (21 Wall. 178), we decided that the

Constitution of the United States has not conferred the right of suffrage upon any one, and that the United States have no voters of their own creation in the States. In the United States vs. Reese et al. (92 U. S. 214), we held that the Fifteenth Amendment has invested the citizens of the United States with a new constitutional right, which is, exemption from discrimination in the exercise of the elective franchise on account of race, color or previous condition of servitude. From this it appears that the right of suffrage is not a neccessary at-
62 tribute of national citizenship; but that exemption from discrimination in the exercise of that right on account of race, etc., is. The right to vote in the United States comes from the States; but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States, but the last has been."

It seems clear to me, both upon principle and authority, that while the State cannot discriminate against the voter on account of his race, color or previous condition of servitude, it may discriminate against him on any other ground, and it is not material whether the discrimination made is reasonable or unreasonable. It is competent for the State, in the exercise of its sovereignty, to say that only those who fought in the Federal or Confederate armies shall be entitled to vote. It is competent for the State to say that only those who fought in the Federal and Confederate armies, and their lineal descendants, shall be entitled to vote. It would be competent, in my judgment, for the State to say that only married men should vote. As remarked by Mr. Jameson, "A line must be somewhere drawn. Where it shall be drawn is a question of expediency to be determined by the existing government, like any other measure involving mixed questions of justice and policy. The principle of exclusion being once established whether it shall be confined to consideration of age, or be extended to those of sex or social conditions is a matter of practical detail to be settled by the political power." Jameson on Constitutional Conventions, page 329 et seq.

When the State has acted and promulgated its constitution, the motives of the legislators, except so far as they appear from the constitution itself, cannot be inquired into. It is the province of the courts to declare the effect and operation of the law, but it is not their province to investigate the ulterior motives of those who framed the law. This principle is declared and enforced by the Supreme Court of the United States in the case of Soon Hing vs. Crowley (113 U. S. 759). In that case, the court, speaking by Mr. Justice Field, says:

"The rule is general with reference to the enactment of all

legislative bodies that courts cannot inquire into the motives of the legislators in passing them, except as they may be disclosed on the face of the acts, or inferred from their operation, considered with reference to the condition of the country and existing legislation. The motives of the legislators, considered as the purposes they had in view, will always be pursued to be to accomplish that which follows as the natural and reasonable effects of their enactments. Their motives, considered as the moral inducements for their votes, will vary with the different members of the legislative body. The diverse character of all such motives, and the impossibility of penetrating into the hearts of men and ascertaining the truth, precludes all such inquiries as impracticable and futile."

Our purpose is to establish the supremacy of virtue and intelligence in this State and to eliminate from the electorate the ignorant and the vicious. In this we are not alone. It has been the aid and end of every government based upon popular suffrage since the world began. Why does Massachusetts have an educational qualification for the voter? It is a mere expedient to purify and elevate the electorate. Why does Rhode Island have a property qualification for the voter? It is a mere expedient to elevate the standard and confine the right of suffrage to those to whom it may be safely entrusted. And so, in speaking of the plan adopted by the State of Mississippi, the Supreme Court of the United States, in the Williams case (170 U. S., 111) says that the convention in that State swept the field of expedients to accomplish the disfranchisement of the negro, but adds that the expedient adopted was a permissible one in that the provision made was not limited by its terms or effects to any one race.

Mr. President, it is much easier to find objections to any plan than it is to furnish a better. It is impossible to understand the difficulties which stand in the way of a solution of this question until you undertake it, and the closer you come to it, the more difficult it will appear. Taking the plan recommended by our Committee on Suffrage and Elections, it seems to me it is better than any that has been adopted by any of the States which have dealt with this subject, and it is better than any one plan which has been recommended, because it combines the best features of all the plans.

The conditions in this State are exceptional, being composed, in one part, of what we term white counties and in the other of what we term the Black Belt counties. One plan might operate admirably in one part of the State, while it would not at all meet the demands of another. Hence, the committee has been compelled to deal with the subject in a comprehensive manner, with a view of meeting the needs and demands of our people in every section of the State.

The most strenuous opposition offered to the report of the committee is directed against that part of the plan commonly known as "the grandfather clause." This part of the plan has been criticised and attacked from unexpected sources, and with an amount of intemperance which seems to me wholly unwarranted. This is a great question with which we are dealing. It is one which affects the very life of the State; and I do submit that those who have been charged with the responsibility, and who have labored so faithfully to discharge the duty, had a right to expect sympathy from some sources where, instead, they have received opposition and antagonism.

Much has been said in this debate as to the attitude of our senior Senator, Hon. Jno. T. Morgan, on this question, and while it seems that the distinguished Senator is opposed to the hereditary right of the soldier and his descendants to vote, he is in favor of the hereditary right of the white race to hold office.

Mr. WHITE: May I ask the gentleman a question?

The PRESIDENT pro tem: Does the gentleman yield?

Mr. KNOX: Certainly.

Mr. WHITE: I would be glad if you would make more plain wherein Senator Morgan has ever insisted upon the hereditary right to hold office.

Mr. KNOX: He asserted it in the plan which he submitted to this convention for its consideration, that the right to hold office, if I recollect it correctly, should be confined to white citizens and their descendants.

Mr. OATES: I will ask leave to propound a question.

The PRESIDENT pro tem: Does the gentleman consent to the interruption?

Mr. KNOX: Certainly.

Mr. OATES: Is it not a fact that Senator Morgan puts that on the ground that the Fifteenth Amendment does not contain any declaration of the right to hold office, but only to vote as the negro, and maintains, therefore, that the State may deny to him the right to hold office?

Mr. KNOX: That is true, but Senator Morgan is not objecting to our platform upon constitutional grounds, but upon the great right that was fought for by our revolutianary fathers, in opposition to the English system of hereditary rights. (Applause.)

Mr. OATES: Except in this. Tha ts true so far, but the delegate will remember that I read from a letter which I received from him, dated the 2d day of July, in which he said he entirely concurred in the minority report and in the views of the minority committee.

Mr. KNOX: Yes, he did.

Mr. OATES: And that included the unconstitutionality of the measure.

Mr. KNOX: Yes, that is true, and I was greatly surprised. I was profoundly astonished when the gentleman read that letter, because I remember when the Flying Squadron was organized to conduct the campaign of the distinguished gentleman for Senator in this State the reason for its organization was assigned to be that the duties of the Senator required him to remain in Washington, and among the important duties which engaged his attention, and made it necessary for him to remain there, was to make an argument in the Senate of the United States against the Pritchard resolution, and I want to read you that resolution. It was introduced by Senator Pritchard for the purpose of thwarting a similar movement to that which we now have on hand, in the State of North Carolina, and his resolution reads as follows:

"Resolved, That an enactment, by constitution or otherwise, by any State, which confers the right to vote upon any of its citizens because of their descent from certain persons or classes of persons, and excludes other citizens because they are not descended from such persons or classes of perons having all other qualifications prescribed by law, in the opinion of the Senate is in violation of the Fourteenth and Fifteenth Amendments of the Constitution of the United States and of a fundamental principle of our republican form of government."

He could not come to Alabama to conduct his canvass for the Senate because he had to remain in Washington and combat that proposition.

Mr. WHITE: Will the gentleman allow a question?

Mr. KNOX: Certainly.

Mr. WHITE: Have you anything from Senator Morgan saying that that was the reason that kept him there?

Mr. KNOX: I have. (Applause.)

Mr. WHITE: On the contrary, I understand he was there trying if possible to obtain the construction of the Nicaraguan canal.

Mr. KNOX: I have it from a member of the "Flying Squadron" who went to Washington to induce him to come to Alabama and engage in the canvass, and he there stated to him that he could not leave, that among other important duties he must stay there to combat the Pritchard resolution and at the same time read to that member of the Flying Squadron the able address which I hold in my hands and a part of which I propose to read to delegates. (Applause.)

Now, upon the constitutionality of the much abused grandfather clause, and as to which the distinguished gentleman from Montgomery (Mr. Oates) says that Senator Morgan in a letter to him concurred in the minority report, in the Senate in a much more deliberate statement of his position than he could make from Warm Springs, he said (referring to the Pritchard resolution):

"The substituted resolution I have just read is not true in point of law. It is not a discrimination on account of race, color or previous condition of slavery, unless the act excludes them by its terms, or by necessary intendment from its terms, for such causes. The exclusion of certain persons or classes of persons or their descendants can be lawfully made in many cases and for many reasons that have no relation to race, color or previous condition of servitude."

Again, in speaking especially with reference to the suffrage plan adopted in Louisiana, he says:

"It must also be such a discrimination as appears on the face of the law that is complained of, and must relate alone to race, color or previous condition of servitude. It is not enough to invoke the interference of Congress that such discrimination is possible, or even probable, under the administration of the law. It must be found in the legal construction of the law and in its legal effect. In this view of the law that governs in these matters the decision in the Mississippi case is conclusive to show that the text of the Louisiana constitution is not a discrimination against the negro on account of his race, color or his previous condition of servitude, and the act is valid against the power of Congress to interfere with it."

Mr. OATES: I desire to read from the letter just that paragraph so you may see the exact language that Senator Morgan used.

Mr. KNOX: I remember the letter very well. You read it on yesterday and Mr. White read one from him.

Mr. HOOD (Etowah): Did not the Senator, in his letter to Mr. White, the gentleman from Jefferson, make the statement that the Fifteenth Amendment had no more to do with this descendant proposition than any other clause or section in the Federal Constitution?

Mr. KNOX: I do not remember that statement. I was simply discussing the question of his——

Mr. WHITE: I will answer the question if the gentleman will permit me. He certainly made that statement, yes, and he meant to say that it was vicious as against every proposition in the constitution.

Mr. KNOX: Well, I will state further, that in this speech of his—he certainly did oppose in that letter the policy of transferring the right to vote from father to son——

Mr. COLEMAN (Greene): Will you allow a question?

Mr. KNOX: Certainly.

Mr. COLEMAN (Greene): Did he not say also in that letter that his main objection to it was that it let in too many negroes and excluded too many whites?

Mr. KNOX: I hink the gentleman is correct.

Now, in discussing this North Carolina plan, which allowed not only the whites and their descendants to vote, but free born negroes and their descendants who were also entitled to vote under the Constitution as framed in North Carolina, he says:

"If such a qualification could then be applied to free negroes who fought for the United States in aid of the Revolution that succeeded in that struggle, without creating a discrimination as to race, color or previous condition of slavery, it would equally apply to the class of negroes who aided in putting down the revolution of 1861-65. There is no more reason under the Constitution for refusing to extend these privileges to the children of negroes who were soldiers in either war than there would be for refusing to extend their pensions to their descendants."

In view of the position which he then deliberately assumed, and ably defended, it is surprising to find that he now contends that the adoption of a similar plan in his own State would be followed with such disastrous consequences. How can he expect us, or the people of this State, with his able argument in the Senate before us, to accept the conclusion which he emphasizes in his letter to the delegate from
63 Jefferson, Mr. White, where he says:

"The transmission of the electoral power by the blood of inheritance from father to son would destroy all distinction between regal government and democracy, and would throw the door wide open for a return to the system that the American Revolution abolished. The steps would be few, and would be rapidly taken to complete restoration of monarchy, so soon as we give to any class of voters the power to qualify their sons as voters by inheritance. In this case, it is the first step that tells with fatal and irrevocable effect."

It is surprising that the distinguished Senator would indulge in expressions like his when he must know that, in large part, the effect of the descendant clause, as applied in our suffrage plan, is to save from disfranchisement the sons of those brave and patriotic men who sacrificed their lives and their

fortunes in defending the cause of the Southern Confederacy. No one has been found who questions the right of the State to confer the right of suffrage upon those who have fought the battles of the State; and if it is within the power of the State to single out a class of patriotic citizens and confer upon them special privileges, it is impossible for me to understand how it can be denied that the State has the same power to extend the privilege to their children and to their children's children. In dealng with the powers of a sovereign State, we must distinguish between the propriety of doing a thing and the power and authority of the State to do it. While some may question the propriety of conferring this privilege upon the soldier—as many do question the propriety of the State's making provision, by pension or otherwise, even for the support of the soldier—it seems clear to me that when you concede the power to confer the right upon the soldier himself, it follows that the sovereign may, if it chooses extend the right to his children, and, if you please, to his children's children.

The distinguished gentleman from Montgomery (Mr. Oates) who signed the minority report, seems to think it would be something awful should we adopt a suffrage plank which would exclude practically all the negroes. Mr. President, no plan which has been suggested has contemplated the exclusion of all the negroes. The end and object of the plan which is reported by the majority of the committee does not contemplate the exclusion of all the negroes, but the elimination from the electorate of the ignorant, incompetent and vicious negroes who, so long as they remain voters, stand as an everlasting menace to good government and to the peace and prosperity of our State.

Mr. President I listened to the eloquent protest which the distinguished gentleman from Montgomery made against the disfranchisement of the negro and as he spoke I could not fail to ask myself, what has he done in this convention, or what does he propose to do, to prevent this. The report of the Committee on Suffrage is unanimous, with the single exception of the proposition supported by four members to strike out the clause giving to the descendants of soldiers the right to vote. Suppose the supporters of the minority report are successful in striking out this provision. In what respect are the negroes benefited? This clause protects a right to vote in the hands of those who now possess it, and includes the negro, and it is impossible for me to understand how he expects to benefit the negro by striking it out of the constitution.

Mr. President, I have been surprised, in the interesting review which the gentleman has given us of his dramatic experience in the military service, to note that the only heroic

conduct which seems to have impressed him was on the part of a negro body servant, while one of his own race is described as climbing saplings in his mighty strides to escape the bullets of the enemy. I deem it unjust to the white man, Mr. President, when a comparison of the races is being made, to select an exceptional instance of depravity as the white man's exemplar, to be set over against an exceptional case of valor on the part of the negro. In contrast to the conduct of the miserable creature of which he speaks, I beg to refer you to the conduct of Poke Miller, a green country lad, who enlisted from that portion of the State which I have the honor, in part, to represent. He was wholly without education, and when he signed the roll, he signed it with his mark. In the thickest of the fight, the standard-bearer of his company fell mortally wounded, and even the veterans around him seemed to hesitate to take his place, when this mere lad siezed the colors, and, waving them aloft, advanced upon the enemy. His comrades shouted, "Bring the colors back to the men," and the answer came back "Bring the men to the colors," and they did, and as a consequence the ramparts were taken and the enemy completely routed.

Mr. OATES: Will the gentleman allow me to interrupt him just there?

Mr. KNOX: When I get through, General.

Mr. BEDDOW: I rise to a point of order. A number of people are on the floor of the convention through courtesy, and they are continually applauding in violation of the rules of the House.

The PRESIDENT pro tem: The chair will state to the gentleman from Jefferson that it is against the rules of the House to applaud, and the chair will again request all gentlemen in the House to be seated, and remain quiet, so that the gentleman can proceed with his argument.

Mr. KNOX: When the gentleman from Jefferson (Mr. Beddow) was speaking of his union labor resolution, and there was applause, I heard no objection raised by him. (Prolonged applause.)

Mr. BEDDOW: Mr. President——

Mr. KNOX: I think I have the floor, Mr. President——

The PRESIDENT pro tem: The gentleman from Calhoun has the floor. The gentleman from Jefferson will be seated.

Mr. Hinson sought recognition.

Mr. KNOX: I hope my argument will not be interrupted——

Mr. HINSON: I want to have the rules suspended and that applause be allowed.

The PRESIDENT pro tem: It seems to the chair that the applause will take care of itself.

Another picture, Mr. President. A beardless southern boy lay dying upon one of the battlefields of Virginia. His comrades leaned low to catch the last words from his lips, to know if there was any message which they might take to his mother and sisters at home. "Yes," he said, "tell them that when I fell, I fell with my face to the foe." He was not climbing saplings.

I now consent to the interruption at this point.

The PRESIDENT pro tem: The gentleman yields to the gentleman from Montgomery if he desires to ask a question.

Mr. OATES: The purpose for which I rose was to ask the speaker if he thought it was a fair illustration of my argument to pick out, or to claim that it was a discourse and a presentation to this convention of my career in the Confederate army because I saw proper to relate one or two incidents? My friend, as gallant as I know he is, would have been there, if he had been as old as I was, and if he had been where I was, and all along through the scenes that I went through, he would know that these were only two small incidents in the many which occurred while I was in that army. Now I was making the argument, as a principle in favor of individualism, and not as a comporison between the two races at all, but as a mark of individualism, wherein I showed that in a particular instance a negro had displayed so much more gallantry and patriotism than a white man. That was only to illustrate my point of individualism that every tub should stand upon its own bottom in the matter of political rights rather than any contention of an equality of the races. I never presumed to say anything of that kind.

Mr. KNOX: I am sure that the gentleman did not intend anything of the kind, but it seemed to me and to many other delegates that he did, in the argument which he submitted, in his efforts to magnify the importance of the negro, and of his rights as a citizen, and in his anxiety that he should not be deprived of his right to vote, he did seem to forget to some extent, the other race, so far as his illustration was concerned.

The principle of inherited capacity for citizenship is recognized by Senator Shelby M. Cullom, a distinguished Republican, chairman of theHawaiian Commission, in his report on the Hawaiian Islands on pages 2 and 3 of Senate Document No 16, third session Fifty-fifth Congress, here he uses this language:

"An important subject of our investigation was that of the adaptability of the several races of the people who inhabit the

islands for American citizenship, and their ability to sustain the obligations which attach to the right of suffrage. The American idea of universal suffrage presupposes that the body of citizens who are to exercise it in a free and independent manner have by inheritance or education, such knowledge and appreciation of the responsibilities of free suffrage, and of a full participation in the sovereignty of the country as to be able to maintain a republican government."

That the southern man is sceptical as to the ability of the negro to become a good citizen, and to exercise the responsible duties of citizenship in a manner which would justify their extension to him, is scarcely to be wondered at when we remember that Mr. Lincoln, the negro's greatest and truest friend, held similar views himself. In his speech at Charlestown, Ill, on September 18, 1858, Mr. Lincoln said:

"I will say that I am not, and never have been, in favor of bringing about in any way the social and political equality of the white and black races—that I am not, nor ever have been, in favor of making voters or jurors of negroes, nor of qualifying them to hold office, nor to intermarry with white people; and I will say, in addition to this, that there is a physical difference between the white and black races which I believe will forever forbid the two races living together on terms of social and political equality. And inasmuch as they cannot so live, while they remain together there must be the position of superior and inferior and I, as much as any other man, am in favor of having the superior position assigned to the white race." (1 Complete Works, 369.)

While we regret, Mr. President, that in the suffrage plan we have not the support of either of our Senators, we remember that those who battled with these difficulties in Louisiana and North Carolina were in a like condition. They, too had the opposition of both of their Senators, but they were not deterred on that account from establishing constitutional reform, and saving the State from the domination of the ignorant and vicious element. But no great reform movement like this has ever been accomplished except by beating down obstacles which confront it on every hand. If we are right, as I believe we are, let us stand by our guns, no matter how virile the criticism or how prominent the objectors. If our position is founded, as I believe it is, upon the bedrock of truth, and meets the wishes and needs of our people, it will be accepted, and, despite all opposition, whether from within or without, it will stand like the granite promontory in the deep. The high billows may roll around it, and the mad waves may beat upon it, only to fall harmless foam at its base.

The distinguished gentleman from Jefferson (Mr. White) in the course of his remarks on yesterday, made a toughing allusion to the disaster which he predicted would befall the report of the majority when it encountered the decision of the Supreme Court of the United States, when he described the final obsequies of the offspring of the Committee, at which he said he might appear, merely as a friend of the family, but in no way connected with the deceased.

Mr. President, when the people are heard from—the people about whom the gentleman from Jefferson has had so much to say during the deliberations of this convention—and the old soldiers and the sons of the old soldiers come to pass judgment on the course which the gentleman has taken with reference to this suffrage plan, there may be another funeral in which the distinguished gentleman will appear—not as a friend of the family, merely, but as the principal in the case, when some new Byron may be inspired to sing:

"Unhappy White, when life was in its spring,
And thy young hope waved aloft its wing,
'Twas thine own hand that struck the fatal blow,
And helped to plant the wound that laid thee low.
Like the struck eagle stretched upon the plain,
No more the rolling cloud to soar again
Viewed his own pinion on the fatal dart,
And winged shaft that quivered in his heart.
Keen were his pangs, but keener far to feel,
'Twas his own pinion that impelled the steel
While the same plumage that had warmed his nest,
Drank the last life drop from his bleeding breast."

Now, a word with reference to the good character provision of the plan and the criticisms which have been made upon the powers vested in the registrars.

No intelligent suffrage scheme has yet been devised which does not make careful provision for the registration of the voter. It is the only means whereby a check can be obtained against manipulation and frauds in elections; and if it is said that this system confers great power upon the registrar, the answer to it is that, without constitution of some authority which is invested with some discretion in the premises, unless you grant universal manhood suffrage, there is no
64 means known whereby the State may purge the electorate and separate the fit from the unfit.

So far as the exclusion of the negro race is concerned, any scheme which could be devised for the purpose of separating the competent from the incompetent voter would exclude

largely more negroes than white men for the reason that the negro is so unfortunate as to be wanting in those qualities which go to make a good citizen. If you select the test of education, if you select the test of ownership of property, if you select the test of patriotism, if you select the test of freedom from the commission of crime—every such test, when properly applied, will exclude largely more of one race than the other. The plan which requires the payment of a poll-tax as a condition to the right to vote will exclude more negroes than white men. The plan which requires the voter to be a person of good character and understanding will exclude more negroes than white men. The plan which requires the voter to have served in the armies of the State will exclude more negroes than white men, but such a plan, in my judgment, cannot, on that account, be said to be unconstitutional.

If a plan is unconstitutional because it operates to exclude more of one race than another, then it is impossible to frame a plan of restricted suffrage which would be constitutional.

An alleged prominent citizen, who omits to disclose his identity, in attacking the plan of registration recommended by the committee, in one of our leading papers, seems to assume that the appointment of registrars and the plan recommended by the committee presupposes that they will abuse the trust and use the power corruptly.

Mr. President, I believe that it was Tallyrand that said that "every man had his price."

Mr. SANFORD (Montgomery): Walpole:

Mr. KNOX: The gentleman suggests that it was Walpole. I thank him for the suggestion, because I have always received such valuable information, and this convention has, too, from the distinguished gentleman from Montgomery. His facts and his information have been of great benefit to us. Walpole, then, it was, who said that "every man has his price" which lead Macauley to remark "that only proved that Walpole had his."

The gentleman from Jefferson (Mr. Lowe) seems to be very much alarmed. I pass from the prominent citizen to take up the argument of the gentleman from Jefferson.

Some plan of registration, Mr. President, has been found in all the States to be absolutely essential for the prevention of fraud. The gentleman from Jefferson, Mr. Lowe, who spoke yesterday against the committee's plan, seemed especially indignant that it should be proposed that the registrars should be appointed by the Governor, the Auditor and the Commissioner of Agriculture. He seems to think that there is some deep-laid scheme on the part of the committee in omitting to select the State officers consecutively, whereas, the fact is, Mr. President, that these particular State officers were selected to

discharge the duties of appointing the registrars under the temporary plan recommended by the committee because, geographically, they happened to represent different parts of the State. The Governor resides in Barbour County, in the eastern part of the State; the Commissioner of Agriculture resides in Marengo County, which is in the southwestern part of the State; while the Auditor resides in Walker County, which is in the northern part of the State; and so, in these three officers, every part of the State is represented, as near as may be. Under the law now in force the county registrars are appointed by the Governor, and I can see no occasion for alarm because it is now proposed to confer the right upon the Governor, the Auditor and the Commissioner of Agriculture.

The Governor of this State is empowered to appoint Justices of the Supreme Court, Circuit Judges and Chancellors. He is empowered to appoint United States Senators, and to fill numerous other places of less importance, and certainly, in view of this, the Governor, assisted by the Auditor and Commissioner of Agriculture, might be safely entrusted with the appointment of registrars. In a republican form of government the people cannot act collectively, but must act through agents. They must confer power upon some one; and I deny that there is any warrant for the assertion that this power cannot be safely left with the Commissioners whom the committee has recommended.

Designing and evil-disposed persons, Mr. President, before this convention was called, suggested that the people could not safely trust the delegates to this convention to discharge the duties for which they were appointed, but I believe the sequel will prove that in so doing, they did well.

The gentleman from Jefferson, in his argument against the grandfather clause, as showing the uselessness of that clause, argues that a person who would be unable to register under the good character clause will be so unfit and incompetent as that he ought not to be allowed to register under any, and yet, with singular inconsistency, proceeded to argue that the liberties of the people would not be safe if left to be administered by the registrars under the good character clause, because they could abuse their power and use it to defeat the ends for which it was created.

I was surprised, too, Mr. President, to hear it insinuated, if not asserted, by the gentleman from Jefferson, that there is danger that this power might be used by the registrars under the good character clause to register all the negroes whether fit or unfit to exercise the right of suffrage. The main objections urged to plans of this kind heretofore, Mr. President, have been that they tended to disfranchise the negro, but the gentleman from Jefferson, in his startling originality, springs

upon us the suggestion that he fears the power will be used to protect the negro in his right to vote. If that is the deep-laid scheme which the committee has in view, the immense amount of sympathy which has been expended in the negro's behalf has been wasted. But, Mr. President, I hold it to be absolutely preposterious, in the light of the fact that representatives from the counties to which the gentleman refers, have labored so long and so earnestly to be rid of the menace of this ignorant and vicious element, that they should come here and seek to fasten these chains more permanently upon them. If they wanted the ignorant and vicious negro to continue to vote, why did they come here at all. In contemplation of law, he is now a voter, and as the gentleman from Jefferson testified as a willing witness to the point that they were able to control his vote very much as they please, why then should they have worked so hard and contributed so materially to the calling of this convention for the accomplishment of that which so far as they were concerned, needed no improvement.

The only reason why the committee recommends a plan of registration at all is to save an extra session of the legislature. The plan of registration recommended by them is temporary merely, and is enforced up to and until the next session of the legislature; and the justification for the committees recommending a plan of registration rests in the fact that it saves to the State the cost of an extra session of the legislature, which it is estimated would be not less than fifty thousand dollars.

But the gentleman from Jefferson (Mr. White) would have us believe that the maintenance of good government is in no danger under conditions now prevailing in this State. Mr. President, if our own insight will not enable us to see this danger, we have an object lesson in our sister State of North Carolina. They, too, thought that after overthrowing the carpet-bag government and establishing white supremacy they were safe; and they were able to maintain good government for something like twenty years. But when the white men divided, a large mass of ignorant and vicious voters found their opportunity, and the people of that State were subjected to such humiliation as I sincerely trust our people may be forever spared.

Time will not allow me to dwell upon the condition which prevailed in that State, but I will quote a paragraph from the testimony of Hon. John D. Bellamy, member of Congress from that State, given in the contest election case of Dockery vs. Bellamy, which will give you some idea of the conditions which prevailed in Wilmington, the principal city in the State, where the negro was in full political control. He says:

"And the result of it was that a horrible state of misgovernment had been brought about; that night after night burgalar-

ies and robberies took place in town, without any detection; that within about eight hundred feet of the city hall six burglaries had been committed in ten days without a detection; that one burglar had been arrested in a lady's residence, a negro burglar, was captured and held by the ladies until a police officer arrived; and that, although the offense was punishable by death and not bailable, he was taken to the city hall, and there let off on his own recognizance, or a straw bond, I have forgotten now which, and the negro escaped."

Again he says: "I recollect especially an incident of my own experience, where I prosecuted for Mr. Hamme, a very gallant and reputable citizen, a hat merchant of this city, who was assaulted in his store in broad daylight by Richard Holmes, a negro policeman, and struck between the eyes with a pair of brass knuckles, and felled senseless to the floor; and that on three trials, although the defendant himself, Holmes, did not take the stand, and the evidence was uncontradicted, the jury failed to agree a single one of the three times, standing the first time nine whites for conviction and three negroes for acquittal; the second trial taking place at the next term of court all the white men on the jury stood for conviction and the negroes on the jury for acquittal; of the third trial, which took place at a subsequent term, it likewise stood eight or nine—I have forgotten the number—whites for conviction, and three or four negroes for acquittal, according to the number of negroes on the jury, and finally the Fusion Solicitor, although I myself was associated in the prosecution, nol prossed the case without even consulting me."

I will pause, too, to cite to you the editorial written by a negro editor of a negro paper published about this time in Wilmington, which he was emboldened to write because of his reliance on the protection he supposed the existing government would furnish, and the publication of which resulted in a riot causing the loss of many citizens:

" Poor white men are careless in the matter of protecting their women, especially on farms. They are careless of their conduct toward them, and our experience among poor white people in the country teaches us that the women of that race are not any more particular in the matter of clandestine meetings with colored men than are the white men with colored women. Meetings of this kind go on for some time, until the woman's infatuation or the man's boldness bring attention to them, and the man is lynched for rape. Every negro lynched is called a 'big, burley, black brute,' when in fact many of those who have been thus dealt with had white men for their fathers, and were not only not 'black' and 'burley' but were sufficiently attractive for white girls of culture and refinement to fall in love with them, as is well known

to all." The publication of this letter in connection with other acts of aggression on the part of the negroes, led to the Wilmington riot which resulted in the loss of many lives.

The conditions which prevailed in the city of Wilmington were such that eight thousand of her best citizens were forced for more than ten days, to suspend business and patrol the streets with Winchesters.

Mr. President, the negroes in Alabama greatly exceed in number those in North Carolina, and he who would believe that there is no danger to us in leaving the ignorant and vicious element of this race in this State possessed of political power would be of a very innocent and confiding nature indeed!

The great work of this convention should be to establish the supremacy of virtue and intelligence in this State—to imbed it deep in the constitution, so that future generations, when they come to view the work that you have wrought, will revere and bless the memory of those who framed it. Thomas Jefferson, the great commoner, who was twice President of the United States, and honored as it falls to the lot of few men to be, when he came to die, turned his back to all this pomp and glory, and counted as the greatest achievements of his life what he had done to benefit his fellow men. "Let it be written," he said, "upon my tomb, 'Here lies Thomas Jefferson, author of the Statue of Religious Liberty in Virginia, the Founder of the University of Virginia and the author of the Declaration of Independence.'"

The PRESIDENT pro tem: The chair recognizes the gentleman from Jefferson, Mr. Furguson.

Mr. REESE: I rise to offer a short resolution to provide for the printing of the speech that has just been delivered by the gentleman from Calhoun. I will ask the gentleman to yield.

The PRESIDENT pro tem: Will the gentleman yield?

Mr. FERGUSON: Yes, sir.

The resolution was read as follows:

Resolution No. 270, by Mr Reese:

Resolved, That five thousand copies of the remarks of Hon. Jno. B. Knox be printed in pamphlet form.

Mr. REESE: I move the suspension of the rules that the resolution may be put upon its passage.

Mr. OATES: Mr. President—

Mr. REESE: The motion to suspend the rules is not debatable.

Mr. OATES: I supposed you wanted to shut me off—I have no doubt about that.

A vote being taken, the rules were suspended, and a further vote being taken, the resolution was adopted.

Mr. FERGUSON: Mr. President and gentlemen of the convention, I feel very much in the position of Sergeant S. Prentiss when in one of the great campaigns between the Whigs and Democratic parties before the war, he made a great
65 speech in the city of New Orleans. In response to the clamorous calls of the multitude that were there to hear Mr. Clay speak, there were various futile efforts to get him to speak, finally he appeared on the gallery of the St. Charles Hotel and said to the multitude in front of him: "When eagles are in the air, it is time for the lesser birds of the feathered tribes to go to their roosts," and retired to his room. I hardly know, Mr. President and gentlemen, whether to consider it a compliment or not, to follow the distinguished president of this convention, one of the ablest lawyers and debaters in the State of Alabama. The committee designated this time for me to speak, but I do not know or did it out of compliment to me or did it for the purpose of making a contrast and saying here is the Hyperian to the Satyr, a Royal Bengal tiger to a singed cat, or the towering peaks of the Maeterhorn to the foot hills beneath it. I am unable to say, but being of a charitable disposition, I am willing to assume that this committee, in assigning me this position, meant to compliment me.

Now, like Flannigan of Texas, "Gentlemen, for what purpose are we here?" It is, as outlined in the enabling act of calling this convention, to amend and revise the constitution of the State of Alabama. They had to put it that way in order to make it constitutional under the constitution of the State, but gentlemen, we know the purpose for which it was called. There is not man upon this floor but what knows the great supreme purpose for which this convention was called, and that it was to reform the suffrage of the State, and to reform it in such a way that the white people might remain supreme in the control of its affairs, and to prevent the possibility, even though at remote times, of negro domination in this State. Let me in the beginning say that I am in full sympathy with the movement. I am glad, however, that this committee in its wisdom put a plank in its ordinance by which negroes of good character in this State should be recognized and given the right to vote, and I am glad that embodied within the provisions of this able instrument, that these able gentlemen have furnished for our consideration, are measures which will prevent the vicious of that race or any other race in the State of Alabama from casting ballots at our election.

Gentlemen, I dislike to appear in opposition to the article reported by this committee, which as has been said upon this floor, is one of the ablest States papers that was ever drawn up. It is in my judgment, an able document with one exception, and that is, what is known and called "The Grandfather

Clause." In the magnificent peroration made by the gentleman in closing his speech, as to the inscription made by the gentleman in closing his speech, as to the inscription on the tombstone of Thomas Jefferson, he might well have added, "Who struck down the law of primogeniture in the United States of America, making it impossible to ever have any class or hereditary distinctions." That is the meat in this provision.

Fellow delegates, the committee and its champions say that this provision is constitutional. Some of the opposition say that it is unconstitutional. I believe that it is so doubtful it ought not to be embodied in the organic law of the State of Alabama, because we cannot tell, gentlemen, what a hostile court will do even though it be constitutional in one aspect of the case. If we should have a close presidential election, the result of which depended upon the vote of the State of Alabama, with a court unfriendly to us, but friendly to the views of our opponents, they would find the means of saying that it was unconstitutional. Governor Jones and Captain White have ably argued to you that the courts will not necessarily look at the face of the instrument itself for the purpose of determining whether it is constitutional or not. They will look at the purposes which actuated the convention that passed it. They will look at it to see whether it is a scheme devised for the purpose of depriving citizens of the United States of the right to vote on account of race, color or previous condition of servitude. Do not forget, gentlemen, that in the history of past decisions, and past congressional enactments in this country growing out of reconstruction, that they will put the x-rays upon it. They will use Roetgen rays to discover an infirmity in the body of the enactment. Being somewhat of a reader if not a student of history, I have taken occasion to look into the question to ascertain for what purposes the Fourteenth and Fifteenth Amendments were enacted. I knew that there must have been some purpose in view inenacting those amendments. The war had closed, and the Thirteenth Amendment had been passed emancipating the slaves of the South. Two or three years later the Fourteenth Amendment followed and the Fifteenth Amendment followed shortly afterward. I have looked into the question and students of history upon this floor will bear me out, in the statement of the reason for the legislation. Mr. Blaine, whom they say was an unfriendly historian, in his book, gives a reason. Samuel S. Cox, a friendly one, gives identically the same reason, and they say that it was on account of the antagonistic, and as some of them classed it, diabolical legislation of the southern States, towards the negro, as a freed man. In discussing the question, Mr. Blaine lay particular stress upon the character of the legislation that was levelled at the negro in a state of freedom by the legislature of

Alabama, which had not yet been abolished by reconstruction enactments. I have here the penal code of 1866, passed by that legislature, and in it I find the acts that Mr. Blaine and Mr. Cox refer to in their histories of that period, and it is so encumbered by enactments for the purpose of keeping the negro in a species of slavery, that the sentiment of the North was outraged. They felt that the four years of deadly struggle had accomplished nothing; that the legislature would override what they had done, and they immediately got together and as soon as possible passed the Fourteenth Amendment, that forbade any State to deprive any citizen of the United States of his rights or to abridge his privileges or immunities, to deprive them of the equal protection of the law. The enactments that had been passed by the legislatures of the southern States immediately fell to the ground, and the negro had all the rights of citizenship before the law that the white man had. Thereafter they passed the Fifteenth Amendment to prevent these unfriendly legislatures from depriving the negro of the right to vote on account of race, color or previous condition of servitude.

Now, you may ask what bearing that has upon the question at issue here today. It shows that if they consider that this strikes at the general government, and its powers, they will look at the purpose that animated this convention, as much so as they did at the legislatures in passing those laws that sought to override the will of the northern people. We should proceed with great care in this matter, so as not to give them the opportunity to declare unconstitutional what we shall enact here. The champions of this committee say that it is not unconstitutional. Why? What reasons do they give?

They say because there were negro soldiers in the army of the United States which fought against the southern States. They say that there are 5,000 negro pensioners in the State of Alabama today. It is true that the negro was enlisted in the forces of the North. That is the evidence upon which they rely to make this a constitutional enactment. Well, perhaps it may do so, but as a vote-getter, I tell you, when it is argued throughout this country, it is not going to gain the constitution many votes. For what purpose, may I ask, is this grandfather clause placed in the constitution, and why the necessity of it? Is not the prime purpose of it to get votes for the constitution? Gentlemen argue here that the people in the hills want it. Well, so far as I know, gentlemen, there was no discussion of it on the stump. It never became a live question until the convention met; and yet, gentlemen get up here and say that they know that the people want it. Well speaking for the greatest white electorate in the State of Alabama, I have tried to find out what their views were on the subject. My

county has in the neighborhood of 23,000 voters, the biggest county in the State, and strange to say, the largest negro county in the State of Alabama, as shown by the reports of the last census; but I tell you, gentlemen, I never saw such an overwhelming sentiment against a proposition in my life, as there is in the county of Jefferson, against this grandfather clause. Now they say, though, that this is not a hereditary distinction. One gentleman quoted to me the other day a Latin maxim, which I have forgotten, but the English of it is that there can be no heir to the living; that is, that the descendants of those living now won't get in, but he would get a heritage from his dead father, or grandfather, or great-grandfather, or some other ancestor that fought in any of these wars. Now, that is hereditary, and as has been said on this floor, that is inconsistent with the provision of the bill of rights. The gentlemen lay a great deal of stress upon that, but I say it is dangerous, for a people under a republican form of government, to establish within it a class of voters to which other voters may not attain and cannot attain. Whether there are many white people within the State of Alabama that cannot attain to the position here that you seek to establish, it creates a distinction in the State, and will have the effect of creating classes. We know what comradeship will bring about. We see it every day in life. If a man serves in the legislature with another, he feels it to be his bounden duty to vote for him, should he ever run for office again. Men in this constitutional convention, all things being equal, will vote for each other hereafter for any position they may aspire to, simply upon the ground that there is a comradeship established. They served together in the constitutional convention, and, therefore, they will support him. This feeling grows stronger in the army. As we already see, the Spanish-American war veterans that have been established for more than two and one-half years. We have the Mexican war veterans organized in some places; Confederate veterans and the Grand Army of the Republic. The Grand Army in its incipiency was organized for a noble purpose; they met together and discussed the scenes of the war and the dangers they had gone through, but politicians discovering the strength of their numbers, began to use them. They discovered the power of the soldier vote, which is a controlling factor in every State north of the Ohio and west of the Mississippi. The pension list calls for $140,000,000, more than it takes to support the army and navy of the United States, and more than it takes to support the great Imperial Army of Germany of more than 2,000,000 of men. Here is where the danger comes about these class distinctions. You have a provision in here under Section 7, that at primary elections these quelifications must be possessed by the voters. Well, what is more natura.

than that this class should get together to nominate officers from their particular class. We pay our old Confederate veterans a pension—I am glad of it; I wish we were able to pay them more; but I would regret to see the day when their sons or their descendants should ask for a pension from the State of Alabama for services that their fathers had performed in the defense of their country, and yet, if you establish a class, there is great danger in the cohesive power of its members. There is danger, gentlemen, that they may try to secure laws for the purpose of getting pension legislation passed in their favor. Because there have been numerous negro soldiers in the Federal army that lived within the State of Alabama, does that commend this plan; does that give it any strength before the people? Will that give it any strength when it is argued upon the stump? Something was said about arguing this thing in caucus, so the people would not get hold of it. I was in favor of the argument seeing the light of day, because I know that there are men on the other side who will be in oposition to the constitution who are smart enough and able enough to get up arguments themselves, and who will spring arguments against the work of this constitutional convention that have been presented here, and some that have never been thought of, so we might as well speak our sentiments and let the people know that we were not afraid to discuss it in open convention. There are able men in the Republican party, one of my friends in Montgomery found that out.

Now, as to this good character clause, I want to ask gentlemen who have practiced law, and many of you are lawyers, what is easier to establish anywhere than good character? If a man has got good character everybody in his community knows it, and it need not be by positive evidence, either, but the most of it is proved negatively; that is, if he ever did anything that was wrong, I never heard of it. There is nothing so susceptible of proof as good character. Then, what machinery do you provide in this instrument for proof of the fact that an ancestor has served in one of the wars of the country? What do you propose along that line? Are you going to ask so and so about it, or are you going to allow a man to walk up and take the oath that his father fought at Gettysburg, or fell at Chickamauga, or his great-grandfather was with Washington at Valley Forge? Are you merely going to allow him to say so and put him in the list of hereditary life-time voters, or list of peers. In the Parliament of England they have hereditary peers and another class called life peers, but in America we have no hereditary distinctions, and cannot have any, unless this instrument passes and becomes ratified. If it does, then in the State of Alabama, a sovereign State of the American Union, we will have a class of life-time voters, men who can

vote the ballance of their life, segragated out of the mass of their fellow citizens.

Mr. OPP: The gentleman's time will soon expire. I move it be extended half an hour.

A vote being taken, the motion to extend the time was adopted.

Mr. FERGUSON: I thank you, gentlemen, very much for extending the time, but I had well nigh gotten through anyhow. However, with your indulgence, I will make a few more remarks upon the subject. I want to know what good purpose can be subserved by placing this provision in the constitution. I want to know if every man who comes in under the grandfather clause could not as well come in under the character clause. If not, why not? The fact that he was the son of a Confederate soldier ought to be a presumption in his favor that he was a man of good character. That was the tendency of every argument made upon this floor. Good character is so easily proved. Now there is no machinery whatever for establishing the fact that a man had an ancestor that served in some of the wars of the country. Addressing myself a little further to that proposition. The distinguished chairman of the committee knows the difficulty of convicting for perjury even in ordinary cases. The burden would be upon the State, as in every other case. The defendant would not have to open his mouth, they would charge him with having sworn falsely before one of these registrars, that he had an ancestor in some one of the wars of the country. They would read the indictment to the jury and he would sit there and not say a word. Would it not be hearsay evidence in ninety-nine cases out of 100? His own evidence would be hearsay in claiming to be the descendant of a soldier. I have been reading the papers about the good ladies of the land desiring to join the Daughters of the American Revolution. The Atlanta Constitution and the Montgomery Advertiser are full of all sorts of inquiries and answers as to who John Smith was, and Bill Jones, and whether he fought in any war or not. Then somebody else will come back and say in some history of North Carolina they say Bill Jones was in a North Carolina regiment, and in some instances upon that they predicate descent from a Revolutionary soldier, and maybe join the Daughters of the American Revolution.

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Mr. WHITE: We are going to have Sons of the Revolution under this section.

Mr. FERGUSON: Sons of the American Revolution, hereditary voters in a class to themselves, that other citizens will not and cannot attain. I never heard of a negro being in the war of the Revolution, and when the Supreme Court of the

United States, that is liable to be hostile and antagonistic, especially if the northern heart is fired, look at it, they will put their X rays on it and say, this is a palpable scheme upon the face of it for the purpose of disfranchising citizens of the United States, because they must know history as we do; they must have known as we do, that there were no negroes of the Revolutionary war, and that there were no negroes in the war of 1812 with Jackson and Coffee, and others. They will say, though, that there were negroes in the Federal army in the war between the States, because they know it and we know it. But there is many a man in the hills that you think is going to break his neck to vote for this grand-daddy clause who will say, "I will never vote to enfranchise one of those fellows, never in this world."

I have been struck by this class distinction. I was struck when we first came down here, with the disposition of men to swell up and be proud on account of certain things. We have in this convention 100 delegates nominated from the counties. We have fifty-five delegates nominated from the State at large, the Congressional districts and the Senatorial districts. I could observe a superior air about the fellow who was nominated from the State-at-large—the House of Lords, or the Upper House of this convention. They would sort of rare back and look down upon us fellows who stood right next to the people, and were nominated by the people. (Laughter.) It is so easy to establish class distinctions, gentlemen. But they soon discovered that the fellows who had the ear of the people and who were nominated by the people were in the majority, and that they would not submit to subordination.

I want to say, gentlemen, that Senator Morgan wasn't so far wrong after all. It is true, they have introduced the record against him here, and have shown somewhat inconsistent statements, but there is this distinction between his position to admit the white race to hold all the offices and setting aside a particular class of voters whose fathers did certain things.

Mr. OATES: I want to suggest to my friend that Senator Morgan is able to handle any side or any question.

A DELEGATE: Or both sides.

Mr. FERGUSON: Well, I think so myself.

Well, now, gentlemen, a few more words and I will have concluded. If we can get all these voters in under the third division, if they are of good character, I ask you in all common sense and reason, what is the use of weighting down the constitution with a provision that may be declared unconstitutional and that may carry down with it all the other provisions on the suffrage question?

But the answer will be, and the argument has been, that this is a temporary class; that it only lasts until January 1, 1903, and that the Supreme Court of the United States could not act upon it within that time. That has been the argument but in the meantime a class would have been established by the registrars. They will have made this hereditary class of voters. But mind you, a Presidential election comes on in 1904, another one in 1908 and every four years thereafter, and there are Congressional elections every two years. If there should come a close Presidential contest will not Congress be apt to say that by reason of this fraudulent enactment you have made this particular class that other citizens could not aspire to, and you have destroyed the republican form of government in Alabama," and they will overthrow it or they will throw out the vote of Alabama in the House of Representatives. Now, unless we want to yield all interest in the Presidential and in the national elections of this counry, in my humble judgment, it would be unsafe to put this provision in the organic law.

I want to say that there is no man on this floor who has more veneration, respect, love and regard for the Confederate soldier than I have, and none who loves his descendants more.

A DELEGATE: Their daughters?

Mr. FERGUSON: Yes, I have loved their daughters and may perhaps do so again. Mr. President, I never see an old gray jacket that it does not raise emotions in my breast. I am not so old as to take a retrospective view of life, and to indulge in memories of the past, but I am old enough to remember when these same soldiers went forth to war in bright glittering uniforms, golden stripes, and with fife and drum gaily playing and banners fluttering in the breeze, as they marched up to the train to go off to Virginia. It was a glorious sight and it thrilled my boyish heart with pride to see the soldiers as they were going out to do battle for their country. But gentlemen, Linden saw another sight, when four years later they came back, not banded together in companies and regiments, but singly and in little squads, dirty and bedraggled, ragged and torn by the misfortunes of war, and it was a sad sight, gentlemen. My every sympathy goes out to them. I love them for the deeds of valor that they did upon many glorious fields of strife during the war. I have no objection to saying that they shall vote because they did that, but I am opposed to making a class distinction in the organic law of the State of Alabama, because I see no necessity for it. Under the good character provision and the other restrictions and means provided therein, I think the ballot will be safe in the hands of the best people of Alabama, the white people of

Alabama, who love the State and want to see good government within her borders. This is a great plan, a great instrument, and with that single exception, I would be glad to see it adopted, but I am afraid of the ultimate consequences. I thank you, gentlemen, for the attention you have given me.

Mr. HOWELL (Cleburne): I had intended at the opening of this discussion not to open my mouth, pro or con, but to study the question through the discussions of the various gentlemen who have so ably argued it, and would therefore by my best judgment, and by my conscientious duty, make up my mind and vote, but I feel, sir, that it is a duty that I owe to myself and to my constituents to give a few reasons which shall govern my vote on this question. I regret very much that I am not in accord with the report of the majority of the committee on the suffrage question. I would be very grateful and very glad if I could be in accord with them, but to be honest with myself, and to be led by my honest convictions of duty, I must dissent from Section 4 of that report. There are two reasons which bring about this dissent. The first is that, although not a lawyer, I think I have some capacity to interpret and understand my mother tongue. I believe it is in violation of the Fifteenth Amendment to the Federal Constitution. You remember, sir, and we all remember, that in the organization of this convention on the 21st of May last, every man of us, of our own accord, stood up in this historic hall, and with uncovered head and uplifted hands and with bated breath, deliberately took an oath to support the Constitution of the United States, and in my judgment, we are undertaking to do a thing indirectly that we cannot do directly, and it is a great principle in law, in morals, and in religion, and everything that is high and right, that it is wrong to do a thing indirectly that we cannot do directly. I must confess, sir, that ever since these States have taken this step, while it was done by Democrats and white men, in spite of myself, it has lowered them in my estimation as a great, honorable, high-toned class of men. I allow no man to excel me in my loyalty to the Democratic party. For forty long years I have never scratched a name from the Democratic ticket. I allow no man to excel me in my admiration and esteem of the Confederate soldier, because no man that lived through the war left more blood upon the field of battle than I did. Yet, when I am confronted with this solemn oath, not only registered here in the archives of this State, but registered by the recording angel on high, and which you and I must meet at the end, I am not prepared to join here in doing a thing indirectly which I have sworn not to do directly. I cannot vote with the majority, on conscientious scruples.

I cannot vote with them for another reason. I believe the grandfather clause is wrong in principle. As I have said, no man would accord to a Confederate soldier, or to any other soldier, and his descendants, down through all the coming years, more than I would. I have five sons who are voters, and some grandsons who are voters, and while they may be proud, possibly, of the record of their father and their grandfather, as a Confederate soldier, I risk nothing in saying that they would not appreciate in any degree the privilege of going side by side with their neighbor to the polls, and being allowed to vote because they were sons of a Confederate soldier, and their neighbor who was not in that condition, be required to come up to other qualifications. These, Mr. President, are the reasons of my dissent from the majority report, and I regret it, because I esteem its members very highly. The committee is composed of men of distinguished ability, men of whose honesty, integrity and patriotism I have no reason to question, but these are questions, my friends, which every one must decide for himself. I will not detain the convention longer. These are briefly some of my reasons, and the main ones, why I dissent from the report of Section 4 of that article.

Mr. KYLE (Etowah): It is only fifteen minutes before adjournment, and as I have not occupied the time of the convention for a moment during these fifty-odd days, I desire to make a few remarks, and state the reasons why I cannot support the pending question. As I understand it, we were sent here to amend the constitution so as to have a franchise clause which would allow every white man in the State to vote, and at the same time not to violate any provision of the constitution. Now, sir, I desire to speak on this question from a business standpoint, and the point of public policy. I shall not attempt, not being a lawyer, to go into the question of the constitutionality to any degree. I will leave that to the able gentlemen who have discussed the question on both sides. I will say, however, that if I were sitting here as a juror, and the question had been presented as this has been presented, I should certainly be one of the jury that would bring in a mistrial. When we go before the people, sir, for the ratification of this constitution (and all of our work here amounts to nothing unless it is ratified), what is the condition that confronts us? As able men as there are in the State, men learned as lawyers, and as constitutional lawyers, tell us, sir, that the adoption of this grandfather clause will probably bring about difficulties in the future that will arrest the progress of the State, and her grand development which is now in progress. Capitalists, not only of this State, but of other States, are looking to us in relation to the fundamental law we are about

to establish, and they will say the question is so doubtful in Alabama, as the result of this grandfather clause, I would rather not invest my money there until the question is settled by the Supreme Court of the United States. It will hereby intimidate capitalists from investment. When we look upon it from this standpoint, it does seem to me, sir, if we could allow every white man to vote in the State, under the third clause of this section which we are now discussing, it would be impolitic to engraft upon the constitution a provision that would bring up these untold difficulties which the learned gentlemen of the minority report have told us about. Now, sir, it is only on that point that I want to draw the attention of the convention. Shall we weight it down with a clause that imperils not only the liberties of the people of Alabama by a reconstruction measure, by the appointment of a provisional governor and all those untold horrors we have had in the past, when we can carry out our pledges, and fulfill every obligation that we have entered into with the people who sent us here, by the third section of this article. It occurs to me, sir, that it would be unwise to do it. As I view the question, sir, the
67 body politic of the State of Alabama has a festering sore, and we have been sent here to relieve the state of that difficulty. We have called in the doctors; they have diagnosed the case; about one-half of the learned gentlemen on each side have differed in their opinions. One has said that you must use the knife; another has said you must have a milder remedy. The people say we do not want to take any risk of losing the patient; we will adopt a milder method, or we will not have the case treated at all. Now, if we can cure this difficulty without the use of the knife, without puting upon us this grandfather clause, which might disturb the commercial relations of the State, and bring about distrust and anxiety on the part of capital, why should we do it? No man is more averse to disfranchising any white man than I am, but I am fearful, if we engraft this clause upon the constitution, capitalists will be intimidated, and a large influence that would otherwise be for the ratification of the constitution would vote against it. Therefore, sir, I have thought it proper to submit my views from a business standpoint without regard to the legality of the question, leaving that feature for the other gentlemen who have discussed it. If we accomplish anything it will be by the ratification of the constitution. If the enemies of the ratification are enabled, by the arguments that have been made by the gentlemen here, to show to the people of the State at large that they take a great risk in doing it, will not the people be timid and refuse to ratify the constitution? These are questions I think should be considered, and these are the rea-

sons why I oppose the grandfather clause in the fourth section.

Mr. GREER (Calhoun): I will state that I will not detain the convention beyond the hour of adjournment. It had not been my purpose, Mr. President, up to five minutes ago, to open my mouth on this question. To my mind the question has been discussed as ably as any question during the session of this convention, and I would not even now submit any remarks whatever, but for the fact that my distinguished friend, the delegate from Cleburne, one of the counties I have the honor to represent, has taken a stand which was very much of a surprise to me, knowing as I do the desire of his constituents and of mine, in the county which he has the honor to represent. I will say, Mr. President, that I have made a canvass of that county and in that canvass I made a pledge to those people that I would defend just such a measure, and I want to say, before the convention was called, I talked with a large number of people of that county, and I know, after making a personal canvass of the county, and talking personally with the people of that county, that they are overwhelmingly in favor of the grandfather clause as reported by the majority of the committee.

Mr. HOWELL: May I ask a question?

Mr. GREER (Calhoun): I yield. I have but a few minutes, Mr. President, but I consent.

Mr. HOWELL: How long has it been since you were in Cleburne County?

Mr. GREER (Calhoun): I was in Cleburne last Tuesday and talked to a number of the gentlemen from Cleburne during last Tuesday.

Mr. HOWELL: I will say further, Mr. President, that I was in Cleburne County a number of days since this convention began, and never heard a single man in favor of the grandfather clause in Cleburne County.

Mr. GREER (Calhoun): I will ask the gentleman if he made a canvass of the county before the convention was called?

Mr. HOWELL: I did in part.

Mr. GREER: I will state, Mr. President, I made a canvass of the county, and was in part responsible for the gentleman having no opposition for the seat he now holds. I made pledges for myself, and made pledges for him, that he would support this very clause that would allow the sons of the old Confederate soldiers of Cleburne County to register and vote under such a clause. I want to say, Mr. President, that I never will by my vote go back on the pledge that I made his people for myself, and I want to say, further, Mr. President, I believe,

and I know, after a canvass of that county, that the people of Cleburne County will applaud my action when I vote in favor of the report of the majority of this committee. There is no use to go into a discussion of the question; it is not my purpose to do so; it has been discussed ably, and you have been told that when the fathers were at the front in the battles of the country, the boys were at home working to support their mother and smaller children there, and after war, the privileges in country districts for education were limited indeed, and they did not have the opportunity of receiving an education; and to deprive them of the means of en education, and then to deprive them of the right of suffrage would, in my mind, be an unpardonable sin, if committed by this convention, in view of the pledges made to the people of Alabama.

Mr. HOWELL: Do you understand because a man opposes this grandfather clause, that he is in favor of disfranchising a single white man?

Mr. GREER: I understand when a man opposes this grandfather clause he is certainly opposing a measure that will allow the sons of Confederate soldiers in Alabama to qualify and vote under the provisions of this report; and it was a very strange thing that I heard a few moments ago, that because Alabama proposes to, and will adopt white supremacy in the State of Alabama, that capital would become timid and refuse to come here for investment. It seems to me the very fact that Alabama proposes to put her affairs in the hands of white men of Alabama and forever place it out of the possibility of its going elsewhere, should be an invitation for capital to come to Alabama because capital wants virtue and intelligence to rule, and they will applaud the action of the people of Alabama in placing her in line with other States, in eliminating the vicious, and—I started to say, Mr. President, and will say —largely the criminal element of the State.

Now, I have said more than I expected to say. I feel very much like the gentleman who was elected to the Legislature in Georgia once, a farmer, like myself, and not an orator. Some gentleman made a telling speech on the floor one day and he got up and said, "Mr. Chairman, I am no spokesman, but I think just what that 'ar man thinks." Now, I am no orator, and no lawyer, but I want to say, in conclusion, I think just what the distinguished gentleman from Calhoun, the President of this convention, has expressed on this floor today.

Mr. FITTS: Mr. President, I move that a vote upon the pending question be made the special order for Monday at 12 o'clock, and that a vote be taken at that time. I make that motion because tomorrow is Saturday, and I have every rea-

son to believe we will have the usual thin house of Saturday here.

The PRESIDENT pro tem: That would require a motion to suspend the rules, and the motion to suspend the rules is not debatable.

Mr. DE GRAFFENREID: I move to lay the motion on the table.

Upon a vote being taken, a division was called for, and by a vote of 24 ayes and 31 nays, the motion to table was lost.

Mr. GREER (Calhoun): I rise to a point of order; there is not a quorum voting.

The PRESIDENT pro tem: The chair thinks he could count a quorum if he had time.

Mr. FITTS: Now, I move that the rules be suspended, and that a vote on this question be made the special order for 12 o'clock on Monday.

Mr. O'NEAL: I move to postpone that question until the evening session.

Mr. PROCTOR: I make the point of order that 1 o'clock has arrived and that this convention now stands adjourned.

The PRESIDENT prot tem: The point of order is well taken.

Thereupon the convention adjourned.

Afternoon Session.

The convention was called to order by the president, and the roll being called showed the presence of 136 delegates.

Leaves of absence were granted as follows: To Mr. Sorrell for tomorrow and Saturday; to Mr. McMillan for Saturday, Monday and Tuesday; to Mr. Foshee for this afternoon and tomorrow; to Mr. Kyle for tomorrow and Monday; to Mr. Fitts for tomorrow; to Mr. Davis (DeKalb) for tomorrow, Monday, Tuesday and Wednesday; to Mr. Eyster for tomorrow and Monday; to Mr. McMillan for tomorrow and Monday; to Mr. Craig for Saturday, Monday and Tuesday; to Mr. Burnett for tomorrow and Monday; to Mr. Graham (Talladega) for tomorrow and Monday; to Mr. Leigh for tomorrow and Monday; to Mr. Banks for tomorrow afternoon; to Mr. Sloan for tomorrow and Monday.

The PRESIDENT: The special order for this afternoon is the consideration of the report of the Committee on Suffrage and Elections.

Mr. PROCTOR: In the forenoon there was a motion made that a vote should be taken on this matter at 12 o'clock Monday. I move that that be amended so as to read 5:30 this afternoon.

Mr. DE GRAFFENREID: I rise to a point of order.

The PRESIDENT: The gentleman will state his point of order.

Mr. DE GRAFFENREID: The motion of the gentleman cannot be made without a suspension of the rules for that purpose.

The PRESIDENT: The chair is advised that the rules were suspended.

Mr. GRAHAM (Talladega): The pending motion was to suspend the rules. The rules had not been suspended.

Mr. HEFLIN (Chambers): I move for a suspension of the rules.

Mr. PROCTOR: I will ask the secretary to read the journal of this forenoon. I think the rules were suspended.

Mr. DE GRAFFENREID: There was a motion to table, and a refusal to table the motion.

The PRESIDENT: The chair understands there was a motion to table, and the convention voted it down, and the question would recur on the motion to suspend the rules.

Mr. HOWZE: I rise to a point of inquiry. Is it necessary to suspend the rules to fix the hour to vote upon a measure that is pending? There are no rules that I know of requiring a suspension of the rules to fix the time of voting and I will ask if that is necessary?

The PRESIDENT: The chair will consider the question and amendment under the rule. It seems to the chair that the convention might, pending the consideration of the question before the convention, decide on a certain hour when the previous question should be considered on this order, without suspension of the rules.

Mr. PROCTOR: Then I make a motion, Mr. President, that the vote be taken not later than 5:30 o'clock this afternoon.

Mr. HARRISON: I move to amend that by making it five o'clock.

Mr. PROCTOR: I accept the amendment.

The PRESIDENT: It is moved that at 5 o'clock this afternoon the previous question shall be considered as ordered on the pending question.

Mr. DE GRAFFENREID: Is that motion debatable?

The PRESIDENT: The chair will be glad to hear suggestions from the gentleman from Hale.

Mr. DE GRAFFENREID: I simply rise to oppose the motion for one reason, Mr. President, that when we took up this matter for discussion—

Mr. PROCTOR: I make the point of order that a motion for the previous question is not debatable.

Mr. LOWE (Jefferson): I move to suspend the rules to allow the gentleman to continue his remarks.

Mr. DE GRAFFENREID: A point of inquiry, Mr. President.

The PRESIDENT: It would seem that the motion of the gentleman from Jackson would be equivalent to a motion that the previous question be ordered, which would not be debatable but the chair was glad to hear a suggestion from the gentleman from Hale, which don't go to the extent of the debate.

Mr. DE GRAFFENREID: I wanted to get the ruling of the chair. My recollection is that the committee on rules—

Mr. COBB: If the gentleman will allow me a moment?

Mr. DE GRAFFENREID: I am addressing my remarks to the chairman a moment on a question of inquiry. My recollection is that the committee on rules reported a rule for this convention at the time the suffrage matter was taken up, and that this convention, so far as the suffrage matter was concerned, adopted a rule which was in conflict with the general rule of the convention, namely, that the rules of the convention should be suspended pending this discussion, and that every delegate should be allowed to address himself to the subject, and that he should be allowed thirty minutes within which to do so. That is my recollection of the resolution that was reported and adopted by the convention.

The PRESIDENT: The chair is ready to rule on the point. In the opinion of the chair a majority of this convention can close debate whenever they choose to do so, and the rule reported had no other effect than that to change the time of the debate from ten minutes to thirty minutes, and the question is for the convention to decide. If the convention wish to close the debate, it is within the province of the convention to do so. I will submit the question on the motion of the gentleman from Jackson.

Mr. SOLLIE: I rise to a question of inquiry.

The PRESIDENT: The chair is of the opinion that this question cannot be debated in the form of an inquiry. Does your inquiry relate to this question?

Mr. SOLLIE: Yes, sir, to this question and the motion itself as to whether or not the motion is in order.

The PRESIDENT: The question is in order.

Mr. SANFORD (Montgomery): It seems to me a hard case. There are gentlemen here desiring to speak, to be cut off from speaking, when it was understood when the matter began that they should have thirty minutes. It is too important a matter, Mr. President. The committee has had ample time to discuss it and nobody else has. It seems to me that other gentlemen here should be heard who are desirious of speaking, they ought to be given an opportunity.

68 Mr. LOWE (Jefferson) The motion now as I understand it is to take a vote at a certain hour.

The PRESIDENT: At five o'clock.

Mr. LOWE: And that does not require a suspension of the rules.

The PRESIDENT: The chair thinks that it would not.

Mr. LOWE: Then I ask the chair, I will inquire would another motion for a different hour have a precedence as a motion to adjourn?

The PRESIDENT: It seems to the chair that any member can move to amend.

Mr. LOWE: If I may be pardoned a moment, perhaps I am trespassing, but this is the most important matter before the convention, and there are others who desire to be heard, and I think if we can have a vote on the question at noon on Monday we could consider the question in a better spirit than we could do this afternoon. Therefore, Mr. President, I move that 12:30 o'clock Monday as the time to take first vote on this question.

Mr. COBB: Make it Tuesday.

Mr. LOWE: I will be perfectly willing to accept the gentleman's suggestion for Tuesday.

The PRESIDENT: The motion is to strike out five o'clock this afternoon and insert 12:30 o'clock Monday.

Mr. GRAHAM (Talladega): I move to lay the motion on the table.

Mr. SANFORD (Montgomery): I move an amendment by saying Tuesday because members will not be here in time on Monday, having gone home, many of them.

The PRESIDENT: The chair will state for the information of the gentleman from Montgomery that before he submitted his suggestion for Tuesday the gentleman from Talladega moved to lay the amendment on the table, and the pending question is the motion to table. It is not debatable.

Mr. COBB: Well, now, some things are debatable which are not debatable. Now I want just about two minutes to say why we should not be in any haste about this matter. If you will give me just two minutes?

The PRESIDENT: The gentleman from Macon asks unanimous consent for two minutes.

Mr. LOWE (Jefferson): I move that the rules be suspended and the gentleman from Macon be accorded five minutes.

A vote being taken the rules were suspended, and on a further vote the motion to extend the time was adopted.

Mr. COBB: Now there seems to be some feeling ejected into this matter. We have under consideration the most im-

portant matter that is before this convention by long odds. We all recognize that and while every one of us believe that this convention is ready to vote, I don't suppose there will be many changes made, but I do believe that every man upon the floor of this convention who wants to be heard upon this question for a reasonable length of time, ought to be heard. That is my view about it, and whether we change anybody or not, let us have our say and let it go to the country, let the people see where we stand, and what we think and what we believe ought to be done. Now a day or two, what does it amount to on this great question?

Mr. GRAHAM (Talladega): I would like to ask the gentleman if he does not think that the speeches would sound just as well made in the campaign as being made now?

Mr. COBB: No, sir; I believe that the record that is being made here will go to the country, and have more influence upon the people who are to vote upon this question than the speeches we will make in the campaign. That is my view about it, and whether it be for or against let these delegates be heard and let it go to their constituents and let the people of Alabama see where we stand upon this question. I believe the people of Alabama will have made up their minds upon this question, even before the campaign opens—those who are reached by the proceedings here. I think it indecent haste to try to cut off debate and bring this question to an issue immediately. I am ready to vote, perhaps all the balance of us are ready to vote, but our people do not know anything about what we are thinking about, they don't know anything about the situation as we see it, and why be in such haste to save a day or two. We have saved enough on the pages of this convention to have paid for that. Let it go to our constituents. I don't care what view we take of it, it will do good. I don't care to make a speech, I have a speech, and perhaps I could made a good one, I don't want to praise myself, I am a modest man, and I would rather sit here and listen to these sage counsellors, these gentlemen who know all about constitutional law. I would rather hear them than speak myself. I am willing to sit here and listen. Who was not entertained and enlightened by the able and forcible speech of our president, we would not have liked to cut him off, but there are others, Mr. President. You are a very great man, and all that, but there are others! (Laughter.) Now let us hear from these others. Let us make haste slowly on this matter. We have plenty of thunder here to let off, I tell you this air around us can be made lurid yet by eloquence that you are not dreaming of, if you will but give

the members time to let it off. Let us make haste slowly, tomorrow is Saturday and then comes Monday, two days more.

A VOICE: Don't you want to go home tomorrow?

Mr. COBB: Yes, I want to go home tommorrow, but I am not going home pending this matter. I am going to vote on it.

Mr. WEATHERLY: May I ask the gentleman a question?

The PRESIDENT: Will the gentleman yield to the gentleman from Jefferson?

Mr. COBB: Yes, sir.

Mr. WEATHERLY: Will you say how you are going to vote?

Mr. COBB: I am going to vote for the majority of this committee, and if you will give me ten minutes——

Mr. HEFLIN: I move that he have ten minutes.

Mr. COBB: Not now, but if you will give me ten minutes at the proper time, I will show all these dissenting brethren that they ought to vote for the majority report of this committee. I hope we will put it off until 12 o'clock Tuesday.

The PRESIDENT: As the gentleman from Macon seems to have been addressing his remarks to the chair, the chair would state that he did not make a motion, but will submit it to the convention.

Mr. COBB: To be sure, to be sure. I have observed that the chair generally submits his motions to the convention. That is all right. I want this convention to be patient in this matter. Now that you have heard from the siege guns——

The PRESIDENT: If the chair would be allowed to express his wish he would hope that nobody would be cut off.

Mr. COBB: We have heard from the siege guns, but in modern artillery these rapid-firing fellows have a good deal of effect in the ultimate result.

Mr. REESE: I have a motion to make, that all the motions before this convention, except the one made by the distinguished gentleman from Macon be tabled.

Mr. LOWE (Jefferson): The gentleman who is so often making points of order, will, perhaps, recognize the propriety of the suggestion that his motion is out of order.

Mr. GRAHAM (Talladega): I make a point of order that the gentleman from Dallas cannot make a motion to table a motion to lie on the table.

The PRESIDENT: The gentleman from Jefferson made the same point of order, and the chair will sustain it.

Mr. DE GRAFFENREID: Can you amend a motion to table?

The PRESIDENT: No, sir.

Mr. DE GRAFFENREID: I want to amend it by tabling both of them.

The PRESIDENT: The secretary will read to the convention the record as it appears on the journal.

The Secretary read as follows: "Mr. Proctor moved to stay in session and take a vote by 5 o'clock. Mr. Lowe (Jefferson) moved to make it 12:30 Monday instead of 5 o'clock this afternoon."

The PRESIDENT: Thereupon the gentleman from Talladega made a motion to lay on the table.

Mr. LOWE: I understand the gentleman from Macon to amend by inserting Tuesday, and I accepted the amendment.

The PRESIDENT: Yes, the question will be on the amendment of the gentleman from Macon.

Mr. GRAHAM (Talladega): My motion was made before the motion of the gentleman from Macon.

The PRESIDENT: I think the gentleman is mistaken.

Mr. LOWE: I think the matter is the other way, but in order to bring it to an issue I will offer to accept the amendment of the gentleman from Macon.

Mr. GRAHAM: Then I withdraw my motion, and make one to table that.

The PRESIDENT: The gentleman from Jefferson asks to withdraw his motion and accepts that of the gentleman from Macon. Thereupon the gentleman from Talladega moved to lay that motion on the table. The question is on the amendment of the gentleman from Macon, to which there is a motion to table.

A vote being taken, the motion to table was lost by a vote of 32 ayes and 69 noes.

Mr. LOWE: I move the adoption of the amendment offered by the gentleman from Macon, and on that I demand the previous question.

A DELEGATE: No.

The call for the previous question was withdrawn.

Upon a vote being taken the motion was carried.

Mr. GRAHAM (Talladega): I have an amendment.

The secretary read the amendment as follows: "Amend so that the entire Article on Suffrage shall be completed at 12 o'clock Tuesday."

The PRESIDENT: The question is on the amendment of the gentleman from Talladega to the amendment of the gentleman from Macon, so that the vote on the entire article shall be made Tuesday.

Mr. DE GRAFFENREID: I move to lay the amendment of the gentleman from Talladega on the table.

A vote being taken, the motion to table was carried.

The PRESIDENT: The question will recur upon the motion as amended.

Mr. BURNETT: I ask that it be read.

The PRESIDENT: It is not in writing. It is that the previous question will be considered as ordered on Tuesday at 12 o'clock.

A vote being taken, the resolution was adopted.

Mr. COBB: I ask leave of absence for tomorrow.

There were loud cries of "No."

The PRESIDENT: The chair hears no objection and the leave of absence is granted. (Laughter.)

Mr. GRAHAM (Talladega): I have been requested to ask leave of absence for all the gentleman who do not desire to speak until Tuesday at noon.

The PRESIDENT: The special order for this afternoon is the section of the Committee on Suffrage.

Mr. DAVIS (DeKalb): I ask leave of absence for tomorrow, Monday, Tuesday and Wednesday. Leave granted.

Leave of absence asked for Mr. Eyster for tomorrow and Monday. Leave granted.

Leave of absence asked for Mr. McMillan for tomorrow and Monday. Leave granted.

Leave of absence asked for Mr. Craig for Saturday, Monday and Tuesday. Leave granted.

Leave of absence asked for Mr. Burnett for tomorrow and Monday. Leave granted.

Leave of absence asked for Mr. Graham (Talladega) for tomorrow and Monday. Leave granted.

Mr. SAMFORD (Pike): As it seems they all want to go home for tomorrow and Monday, I move we adjourn to meet on Tuesday at 9:30 o'clock.

Mr. PILLANS: That is pretty hard on us who do not travel on free passes. I hope the gentleman will withdraw that, I don't want the convention to leave me.

The PRESIDENT: The question is to adjourn until 9 o'clock Tuesday.

Mr. HEFLIN (Chambers): I wish to amend by making it 11 o'clock Monday.

A vote being taken there were 60 noes and 33 ayes and the amendment was lost.

Mr. Smith (Mobile) was recognized.

Mr. PETTUS: In order that the gentleman from Mobile may not be interrupted, I move that his time be extended thirty minutes beyond the regular time.

A DELEGATE: I move an amendment that he be allowed to finish his remarks.

Mr. PETTUS: I accept that amendment.

A vote being taken the motion was adopted.

Mr. SMITH (Mobile): While not in entire accord with the view of the remainder of the committee as to the necessity either for the soldier or descendant clause, in order to accomplish the purpose of the committee and of this convention, I am heartily and thoroughly in accord with them as to the constitutionality and validity of each and every clause in the report of that committee, and if it be deemed by the majority of this convention that the descendant clause is necessary, or that it is in the interest and welfare of the party, or that it will advance the interest of such constitution as this convention may recommend, then I shall not only vote for a constitution embodying that clause, but I feel that I am willing and ready and able to go before the people and not only justify each and every clause in it, but to contend that under the circumstances it was the wisest and best thing that this convention could do. I was requested by the chairman of the committee to make an argument at this time, and in the meantime to take notes of the various arguments that were advanced against the validity and constitutionality of this clause, and answer them and during the debate I have carefully taken note of every argument that seemed to be worthy of it, and I thought I was prepared this morning not only to answer many of those arguments satisfactorily to myself, but also to do justice to the convention, but as I sat here and heard our able and learned President proceed with the discussion of these various questions, I saw one after another of the arguments that had been made rapidly disappearing before his skill and ability, until before he took his seat I thought that so far as that portion of the work assigned me was
69 concerned, I was like Othello without further occupation. In this State, circumstances have thrown together two separate and distinct races, as different as races could be made. The African race was placed in the incipiency of its history in one of the richest and most productive continents of the world. It lived and abided there, a race of barbarians, without making the slightest progress to material welfare and without the dawn of civilization ever breaking upon it, even in the rudest form. From that dark continent the ancestors of those who are now with us were brought in

slavery; they came to this country and were tutored in the arts of servitude, and in the duties of obedience, but the arts of free government, the principles of liberty and freedom have never been instilled into them and they are today, after a period of over thirty years of freedom, almost as ignorant of the use of those arts as they were when they were brought from their own native land. These people have been forced in almost equal number upon the other race that occupies with them this State. The Anglo-Saxon race was planted in a much less productive country than that which was occupied by the African. As far back as we can trace, the Anglo-Saxon race had some rude form of free government; from its very incipiency it has been upon a steady march to progress, until it has reached a civilization as high as the world has ever known, and has formed the greatest republican government that is known to mankind. These people were, as it were, made equal partners in this fair land of ours, each with an equal right to rule, and a struggle necessarily ensued; a struggle that was sharp, short and decisive. The Anglo-Saxon race, by force of character, obtained the control of the government which it was created and fitted to manage and control, and it has held that control from that day to this, and will hold it for all eternity.

The question is not whether the Anglo-Saxon race will maintain its supremacy over the African race. The question is whether the State of Alabama will confer upon it by fair and proper laws the legal right to maintain that supremacy. To maintain it, as it has been, has cast a shadow over the name of one of the fairest countries that ever lay beneath the sky, and we have assembled to pass a law not to give to our people that which they are entitled to by inheritance, but to give to them the right to deal lawfully with that they have owned and possessed for all time—that which they have bought and paid for, and that which was only wrested from them for a brief period by a superior force and power. You, gentlemen, have selected a committee for the purpose of suggesting a proper article upon Suffrage and Elections. That committee was composed of as good men as we had in the convention, though no better. It has labored diligently, carefully, and honestly not for the purpose, as has been said, by some of the members of the convention, of depriving all negroes of the right of suffrage, not to avoid depriving any white man of it, but to frame such an article as will place the ballot, as was said by our president, in the hands of those who are competent to wield it, and take it from the ignorant and the vicious. It so happens that the great majority of the negro race belonged to the latter class, and it so happens, therefore, that any provision that we may formulate that would properly accomplish the lawful ends that we seek, would necessarily take that ballot from a very

much larger portion of the negroes than of the whites, and this particular article will so operate. The grandfather clause has been attacked as unconstitutional. So far as I am concerned, I think the good character clause is broad enough, and sufficient, to admit every man that will be admitted either under the soldier clause, or the descendant of soldiers clause. I believe that the number of soldiers that do not bear a good character and do not understand the obligations and duties of citizenship under a republican form of government is not appreciably large; that it is so small that it can hardly be taken into account, even under the pledge that the Democratic party has made not to exclude any white man from the ballot. I believe, too, that the descendants of soldiers—practically all of them—would be admitted to the electorate under the general clause, and I believe, therefore, that the addition of the descendants clause is not necessary for the accomplishment of our purpose. So far as the soldier clause is concerned—though I believe that, too, is unnecessary, I would not, even if the majority of the convention was with me, strike down that clause, because I believe that it is fitting, now that the people of Alabama have assembled in their sovereign capacity for the first time after those who have defended her liberties have, to a great extent, passed from active scenes, some memorial of the State's gratitude for those who have laid their lives at the foot of the altar of patriotism on behalf of their State and their country, should be written in the very constitution of our State.

The particular county that I represent is and has been opposed to the descendants clause, not solely upon the grounds that I have mentioned, but because they have been taught that the descendants clause is unconstitutional and void and that the adoption of that descendants clause will throw down and overturn the entire work of this convention. That teaching, gentlemen of the convention, was by those who have ventured upon this subject, without any study or consideration of it. They have seen this particular clause in various constitutions. They have heard of the attack that is being made upon one of them in Washington now, and of the attack that has commenced in Louisiana on another and they have jumped to the conclusion that they are unconstitutional. But I believe that if the majority of this convention adopts the soldiers clause and the descendants clause, as I believe they will, and those of us who represent my county go back and say to those people "not only have we considered the constitutionality of that clause, but 155 of the leading men of the State of Alabama have had it under deliberate consideration and have come to the conclusion almost, though not quite, unanimously that it is constitutional," and if we say to them further that "the mere fact that you do not need the aid of that clause is no rea-

son why you should object to it; that there are other portions of the State that want and demand it; that you have obtained in the third clause of the fourth paragraph everything that is necessary to protect you and keep your ballot pure, and that the balance of the State is entitled to these other clauses if they believe them to their interest—then, I doubt not for one moment that no further controversy will be made over it, and I am satisfied, that properly explained, my people will adopt whatever constitution this convention recommends. (Applause.)

Mr. President, the attack that has been made upon the constitutionality of this provision seems to me to have been utterly demolished by the presentation this morning made by the president of this convention, and I would not feel that it is necessary for me to add one word to that clear and masterly explanation of the subject that was made by him except for the fact that our respective counties and the people we are personally acquainted with and personally deal with—the people who have sent us here to represent them, look in some measure, at least, to the views of their own representatives in the consideration of these matters and in coming to a conclusion upon them, and for that reason I think it proper that I should go on record in a clear and definite statement that I have not the slightest doubt in the world as to the constitutionality of either of these provisions. (Applause.)

Mr. WHITE: Will the gentleman allow me to ask him a question?

Mr. SMITH: Yes, sir.

Mr. WHITE: Are you of the opinion that the grandfather clause in the Louisiana plan is constitutional?

Mr. SMITH: I am not. I am not enough of a politician to know whether it is proper or not proper, but, as the gentleman knows, I was probably the first man in this convention to speak out on that subject. He probably knows that I was appointed on a committee with two of the most learned men, not only in this convention, but in this State, for the purpose of suggesting what might and what might not be lawfully done in the way of reforming this article. He knows that, with all the respect that I had for the learning and ability of those gentlemen, I took issue with them upon that question and made that fight in the incipiency of the convention before I knew whether there was a man in the convention who agreed with me or not. But, gentlemen, the mere fact that I believed and said, and now believe and say that in my opinion what is known as the sixty-seven grandfather clause is unconstitutional does not militate in the slightest degree against the opinion that I here expressed that the clause which admits soldiers

and the descendants of soldiers is absolutely constitutional. The line that divides the two is as clear and distinct as any line that marks on the one side a decidedly fraudulent scheme and on the other a scheme based upon proper principles, well established law and honesty, good faith and integrity. Take the provision of 1867, and what does it do? It provides that every man who could vote in 1867 and his descendants shall have the right to vote under the existing constitution. It is usually associated with a clause that prescribes qualifications so high that nobody can reach them, and what have you got? You have a provision that says, when viewed in the light of the history of this country, that every white man can vote and no negro can vote. You simply take a period when every constitution in the United States with but one or two exceptions said male white citizens might vote, and no other persons. You then say that everybody who could vote at that time, that is, all male white citizens of the United States, and all of their descendants can vote, and nobody else can vote. When you say that, whether you say "negro" or "white man" or not, you say in plain language you will permit all white men to vote and exclude all negroes. You have thereby denied and bridged the right of suffrage "on account of race, color and previous condition of servitude," and not for any other cause. Take, on the other hand, the scheme this committee has presented, and what do you say? You say that every man of good character who understands the duties and obligations of citizenship under a republican form of government may vote whether he be a negro or a white man, and, when you have said that, you have said that every negro who has the proper qualifications for the exercise of the elective franchise, every negro who is capable of participating in free government may vote, and when you have permitted every negro who is capable of properly exercising the franchise to vote, you have deprived no negro of the right of suffrage, nor have you abridged that right, because of his "race, color and previous condition of servitude." Now, if your soldier clause and your descendant clause simply admitted a number of white men without admitting a single, solitary negro, you would not have deprived any negro of the right to vote, nor would you have abridged his right, because of "race, color or previous condition of servitude." Suppose under such a condition as that, a negro was to apply for registration, and was asked whether or not he was a man of good character. No, I am not. Do you understand the duties and obligations of citizenship under a republican form of government? No, I do not. Then you are not permitted to vote. Why am I not permitted to vote? Not because of your race or color but because you are not a man of good character. Could he do as a man has attempted to do in

the State of Louisiana, go into the courts and say, "It is true, they ought not to have let me vote, it is true I was not fit to vote, it is true I was a man of bad character and would have been a stench in the electorate, but still they did not exclude me for that reason. They excluded me because I was a negro. How do you know it? I know it because I am a negro. The soldier and descendant clause does not simple admit white people. All of my friends on the other side of this controversy admit the character clause is constitutional. All of them admit if you wipe out the soldier and descendant clause, this plan would be free from attack on that account. Every one of them admit that every negro who is entitled under the Constitution of the United States to the right of suffrage would have the right of suffrage under that clause. If that is so, what does the adding of the soldier clause do? As the president of the convention told you this morning, you have the right to fix any qualification upon voting you see fit, provided only, that there is no exclusion on account of "race, color or previous condition of servitude." What, now, does the soldier clause do? Does it exclude a single, solitary negro? Is there a negro that can complain that he is not admitted to the suffrage when he confesses that he is not qualified to exercise it? If it does not exclude a single negro, from the electorate, then it does not deprive him of his right of suffrage nor does it abridge that right; far from depriving him of it, it absolutely adds to the number of negroes that can vote under what the gentleman admit would be an entirely lawful plan. How then can it be said that a provision that grants to a race a right of suffrage that they would not possess except for that provision, denies either the race or the individual the right of suffrage or abridges it in the remotest degree? My friend from Montgomery, Governor Jones, announced a principle that the president of this convention showed to be entirely untenable. I had supposed that the gentleman knew that there were only five or six decisions bearing directly upon this question, and that all of the earlier decisions to which he and others have referred were confined exclusively to the treatment and discussion of the Fourteenth Amendment and that the question of inequality was one applicable only to the provisions of the Fourteenth Amendment which is to the effect that the equal protection of the
the law shall not be denied to any person within the
79 jurisdiction of the United States. It is not a provision
that is confined to the male citizen of the United States. It is not a provision that is intended to protect the negro or the Chinaman or any other particular class. It is not a provision that relates in the remotest degree to race, color or former condition of servitude. It is true that the danger of inequality between the two races actuated Congress in adopting

it, but when adopted, it was so not to be confined to the negro race but to cover every person, white or black, male or female, citizen or foreigner within the jurisdiction of these United States. It did not protect them in their political right. It related solely and exclusvely to civil rights, to the rights of liberty and property; rights that inherently belonged to all men, not rights of suffrage which are necessarily under the law, gifts of the several States. The president has called your attention to the fact, that in one case absolute equality is demanded and in the other the only restriction is that one particular exception cannot be made against one particular class of people. Now, the most extreme decisions that there are upon this subject are the Kruickshanks case and the Reese case, which are based upon the case of Minor against Happersett. Those are the decisions that define and limit the rights of the State towards this race, and the furthest they have ever gone is to say that wherever a white man having named qualification is permitted to vote, a negro having the same qualifications shall also be permitted to vote. What those qualifications may be, outside of the question of race, has been left entirely and absolutely to the arbitrary will of the State. My friend over here from Jefferson (Mr. White) instanced as a qualification all persons with flat noses, and, Mr. President, while it is true that if you simply pass a law that no man with a flat nose shall vote, and that everybody else shall vote, that law, taken in connection with the characteristics of the negro, might be construed as intended, or as another way of saying that, all white men may vote, and all negroes may not vote, regardless of every other circumstance, and if it was so construed and so operated, the Supreme Court might say, as was said by my friend from Barbour, that we will act upon the operation of the statute and assume that you intended the natural result of your action and that you intended to pass a law which did deprive the negro of the right to vote on account of "race, color and previous condition of servitude." But, if, as this committee has done in this article of this report, you were to pass a law giving the right of suffrage to every negro in the State of Alabama who was properly qualified as a voter and fit to exercise that privilege and were to then say that no other man having a flat nose should vote that law, in spite of its absurdity, would be absolutely constitutional in my opinion.

So, too, with the gentleman's curly head illustration. If it stood alone so as to draw a dividing line between the white man and the black man, so as to operate to exclude from the electorate every negro, and admit every white man, it would be held unconstitutional. But, as I said a moment ago, in re-

gard to noses, if every negro who was properly qualified for suffrage was permitted to vote, and then it was said that no other curly headed man or no other negro, for that matter, would be allowed to vote, it would be perfectly constitutional. The fact that you exclude even by race every negro who was not fit to exercise the right of suffrage, would not render that law unconstitutional. My friend from Jefferson told us a pig story and asked if you put a sow and pigs in a pen, as we put the black and the white in character clause of this article, and then left a crack big enough to allow the pigs to get out, wouldn't that be a discrimination in favor of the pigs and against the sow? Another gentleman from Jefferson replied, yes, but not because she was a hog. Now, if that old sow happened to be black and happened to have one black pig and nine white ones, and you made that crack so that the black pig could get out as well as the white ones, then it would not be a discrimination against the sow because of her race or color, she would not be denied her liberty because she was black.

Mr. WHITE: I will ask you now if the grandfather plan you have adopted does not operate to let one crowd in and keep the other out when the law says you shall not do it?

Mr. SMITH: It operates to let one crowd in and keep the other out, but the law does not say you shall not do it. One crowd is a crowd of white and negro soldiers, and the other crowd are not either white or negro soldiers, and it lets in the white and negro soldiers and descendants of white and negro soldiers and keeps out those who were not soldiers.

Mr. WHITE: You admit that if there were no descendants of negro soldiers that would be bad?

Mr. SMITH: I do not.

Mr. WHITE: Then I misunderstood you.

Mr. SMITH: The gentleman seems to imagine when he asks a question, that it is not sufficient to answer the question, but I must go further and presume that he asked an intelligent question also. (Laughter.)

Therefore, gentlemen, I am perfectly satisfied with the constitutionality and validity of both of these clauses. I believe that the people have been taught that they are necessary by the enemies of this constitution. I believe there have been insidiously whispered into the ears of the people throughout the country that there is a sinister motive beneath the desires of portions of the people of this State, and that it matters not what sort of clause they get up, there will be some fraudulent scheme to rob the white men of their right of suffrage. I believe that many people have been made to believe it, and therefore they are demanding this descendant clause, not because it is necessary, but because they fear this unknown something

that has been whispered about. They are demanding these soldiers and descendants clauses, because they know the registrars cannot say their fathers were not soldiers and that they are not the sons of their fathers, and I believe that is the sole necessity for it, and as I said in the beginning, while no such necessity exists in my portion of the State, still if you gentlemen knowing the people of your portions of the State say it is necessary, put it in, for it is certain that there will be no harm done to the validity of the constitution, and I fear no court's decision upon the subject.

As to the proceeding in Louisiana, if you have had an opportunity to examine the petition, you know that they must have been instituted for your especial benefit. You know, further, that in taking that proceeding for your benefit, they have failed to observe that a large proportion of the membership of this convention are lawyers, because from a legal standpoint they have filed a ridiculous petition. The petition is this: They took a fullblooded negro, 45 years of age that came from Tennesee in 1860, and had him apply for registration. In reply to the questions that were asked him he said that he could not read, nor could not write, that he had no property of any kind, and paid no taxes, that he was a soldier nor the descendant of a soldier, and that he had not one single qualification required by the laws under which he offered to register. The registrar declined to admit him to register because he had none of the qualifications, but he contended in his petition that the entire law providing for franchise in Louisiana is unconstitutional and void, and he therefore prays a mandamus to compel them to register him under the law that he says is an absolute nullity. In other words, he claims that de legal registration can be had by any man and still he is in court with proceedings seeking to have himself registered. I care not what may be the merits of his controversy as to the legality of the suffrage clause, the proceedings he has taken must necessarily fail. If the law be held to be valid, then he admits that he has not a single, solitary qualification named in that law. If it be void, then it is absolutely impossible for them to register him, for there is absolutely no law to register anybody, and the petition that the gentleman spoke of as having been filed in Louisiana was therefore necessarily filed to enable the gentleman of the views of the minority of the committee to threaten this, and the Virginia constitutional convention with the action on the part of the negroes to amend the constitution. I had intended to say something in regard to the position that General Morgan and General Pettus have taken. As far as General Pettus is concerned, I have discussed this matter with him. He and I have talked over the "sixty-seven" clause from one end of it to the other; talked over the very authorities that

I have called your attention to. We were in thorough accord upon the subject. Not upon any such idea as was presented by the ex-Governor, the gentleman from Montgomery, not because he imagined for one moment that the decisions applicable to the Fourteenth Amendment, were applicable to the Fifteenth Amendment, but because, as I have said in the outset, the "sixty-seven" clause is used to circumvent the Fifteenth Amendment. His views, so far as I have heard them, have not touched in any degree upon the validity of the clause admitting soldiers and their descendants to suffrage in this State. Certainly, he expressed no opinion that would justify the inference that he believed that these clauses in connection with the good character clause we have introduced, violated any provision of the constitution.

So far as the senior Senator is concerned, for my part, I will only say this: That as learned as he is (and I believe he is next to the most learned man that I ever knew), as able as he is, if he had never made but one declaration and that declaration had been adverse to this provision and had been made after thorough study and consideration of the authorities, with great deference to him, I would nevertheless say that he was absolutely and entirely mistaken about the law. I will not criticise him. I think our president in the discussion this morning said all that ought to be said. I think he called attention to enough of the remarks of the senior Senator to show that the senior Senator's objection to this clause does not arise from any well settled or grounded opinion that it is unconstitutional. As to the hereditary part of it, it seems to me that the president of this convention disposed of the Senator's discussion of that. As to the claim of the other gentlemen that it is hereditary, I beg to say that in my opinion, it is based on as firm a foundation as is the argument that they made against the constitutionality of the provision, and upon a foundation which is no firmer or broader.

That which is inherited must necessarily belong to the ancestor during life and pass by inheritance after death. The mere fact that the law points out a class of people and grants to them the same rights as another class, passes and designates the classes by their relations of parents and children, or by any other relation, is not granting a right on inheritance, but is merely giving, as is said in the books, a right by purchase—that is, it is granted to them in their own right and they are simply designated as a certain class. How? Not by name, not by color, but as the children of a certain class—the descendants, be it child or grandchild, of soldiers, not to the descendants for all time, but simply to those descendants who are now twenty-one years of age, or who will be twenty-one years of age before the first day of January, 1903.

Mr. FERGUSON: May I be permitted to ask the gentleman a question?

Mr. SMITH: Yes, sir.

Mr. FERGUSON: Why not confer this privilege upon the early settlers of the State of Alabama?

Mr. SMITH (Mobile): Because I think it would be ridiculous.

Mr. FERGUSON: Why is one more ridiculous than the other? I will ask the gentleman to answer that question.

Mr. SMITH: I know of no more difficult task that any gentleman could assign to me than to say why is one thing he does more ridiculous than another ridiculous thing that he does, but really I know the gentleman wants a little information, and I will give it to him. The only reason that I see for not giving it to the early settlers is because those who, like the gentleman, are opposed to this constitution, or the provisions that we are framing, have not gone over the country and induced the people to believe that it is absolutely necessary to give it to the descendants of the first settlers to keep somebody from defranding them, and, therefore, it is not necessary to make any such class to meet an emergency that does not exist.

As far as I am concerned, I said in the inception, that I did not believe it is necessary to accomplish our purpose that we should give the right of suffrage either to soldiers or to descendants of soldiers. I believe that every soldier and every descendant of a soldier would be admitted under the good character clause, but as the admitting of the soldier is a compliment and a tribute that is due to them as the defenders of this country, I am in favor of writing that compliment in the very constitution of the State of Alabama (applause), and let it be known of all men, and for all time, that we are proud of and thankful to those men who have served us; as to their descendants, I believe we have a right to confer the right of suffrage upon them and I believe there is no law that stands between us and that right. These people demand it, and if a majority of them say they believe in it, then let them have it. That is why I think one proposition is ridiculous and the other is not.

Now, on that proposition of inheritance, as I was saying; it does not descend from the father to the son. No man upon whom it is conferred by this law can transmit that right to any one. It is given to a certain class of our soldier-citizen class who stand here today already possessed of that right, and of sons of soldiers who are either twenty-one years of age, or will be twenty-one years of age before the first day of January, 1903, and it never descends to another generation, and therefore, it is not a right of inheritance. If the law said that we

could give this right of suffrage to these, and if a majority of the citizens of the State of Alabama say they want it, I would give it to them, whether it was giving them an inheritable right, or was not giving them an inheritable right, although Thomas Jefferson or anybody else once may have said, under different conditions, that it is not proper; that would never bind me when that state of affairs has changed and the people of my State are demanding from me as their representative that or anything else that they are entitled to.

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Passing now to the clause that has not been attacked, so far as its constitutionality is concerned; that one that says that only a person of good character, who uinderstands the duties and obligations of citizenship in a republican form of government shall have the right to qualify. In the first place it has been whispered around, and said here in this convention, and I believe by a lawyer, that the word "good character" is a comparative term; that a man might be of good character in China, and not a man of good character in America, and vice versa; that is an uncertain term, that no man knows the definition of it; that it was, therefore, put in here as an instrument of fraud, and will be so used. It is true gentleman, that a man might bear a good character in America and yet not have a good character under the same circumstances in China. It might be that a man might bear a good character in China and yet not bear a good character in Alabama. What difference does that make, if he was in China and bore a good character, according to the understanding of those people. He would have the right to vote there. And if he was in Alabama and bore a good character, according to our definition and understanding, he would have the right to vote in Alabama. And, while it is a variable term, it varies according to the people who have the right of suffrage; the qualifications for suffrage varies, and ought to vary, according to the people among whom he lives. Is it a definite term; it is a term that has been used, defined and understood in our jurisprudence since its earliest dawn; it is a question that comes up at every term of the court, and it is a question that is established at every term of court, and every lawyer and solicitor, more than anybody else, know clearly and distinctly what the term is and how it is proven. Why, I have heard the question asked: "Suppose a man did this, would the registrars say that he was a man of bad character?" Or "suppose he did that, would they say that he was a man of bad character?" Why, every lawyer in this convention knows that character is not made by a single act in life, that there is no act that a man can do that will necessarily stamp him with a character either good or bad. Character is the verdict of the people among whom he lives. Character is what his neighbors and friends and associates say of

him as the result of a consideration of the whole life that he has lived in their midst, and as the result of that life the community characterizes one man a man of good character and another man as a man of bad character. It seems to me that there is no test, when considered in connection with the electorate, that ought to be adopted or treated as better than the verdict of the people among whom a man has lived, but how is it to be proven—say some. Why, it is presumed in the first place. No man has to prove that he is a man of good character; the presumption is that he is a man of good character until the contrary is shown. What is the duty and obligation of citizenship? Taken in its broadest terms, I apprehend that it is the duty to support and obey the constitution and laws of the government under which one lives. Taken in a more restricted sense, it means that a man should understand the duties he is under to exercise his right to participate in the government by the use of his suffrage franchise for the good and the welfare of the whole people, and not for a fraudulent or sinister purpose. It is the obligation to perform such duties as may be entrusted to him by the benefit of the people, and not for selfish motives, and to bear his burden of taxation. Is it uncertain in any respect? If it is, then so, too, is the qualifications that have been adopted by the entire United States by which to determine the fitness of every foreigner for citizenship in the United States, for the provision of the act of Congress that has stood for years, without criticism, either as to its validity or property, is that he must have lived in the United States five years, and must show to the satisfaction of a judge, by his behavior, that he is a man of good moral character, and is attached to the principles of the constitution, and well disposed to the welfare and happiness of the same. The same character qualification is there. A man that is admitted to citizenship in the United States must have a good moral character, and the man that is given the right of suffrage under this report must have a good character; the man that is admitted to citizenship under the laws of the United States must be attached to the principles of the constitution, and not merely attached to them, but must have shown by his conduct and behavior during the period of five years of his residence that he is attached to the principles of the constitution. How can any man who does not understand the duties and obligations of citizenship under that constitution so conduct himself with regard to it as to show that he is attached to the principles. So, Mr. President, this is no new scheme. This is no trick of the Black Belt to arrange a fraudulent scheme by which to swindle the hill counties. It is the adoption of a well known test, a test applied by all the people of these United States, to the right of citizenship, long before this race issue

had arisen to plague any to annoy us. Besides that, way back in 1786, I think it was, Connecticut had substantially the same provision. At that time a man had to own a certain amount of property, and had to be of peaceable and quiet behavior, and in addition to that, had to be of civil conversation. Will my friends say that at that time there was probably a Black Belt in Connecticut, and that they expressly got up the expression "civil conversation" in order to get all of the negroes into the electorate and exclude and defraud the white men of the hill counties?

Why, Mr. President, nobody ever heard any criticism of this Connecticut provision. Not only was that provision in the Connecticut constitution, but identically the same provision existed in Vermont; afterwards it was provided that a man must be of good moral character, and after he was admitted to the electorate, if he then walked scandalously, or was guilty of a scandalous offense he was thrown out of the list. What was walking scandalously, and what was being guilty of a scandalous offense? Read the books as much as you will, you will not find where any particular class of people have taken this as a subterfuge for defrauding anybody else. But you say, "your registration is all wrong." Well, that is not without example.

Mr. OATES: Mr. President, I do not want to break the continuity of the discourse of the delegate. The very question of the constitutionality of this, or any similar measure under the Fifteenth Article has never been tested by the Supreme Court. Is it not left for every lawyer to draw his own conclusion?

Mr. SMITH: From the discussion of the Fifteenth—

Mr. OATES: But not on the point. That was my conclusion.

Mr. SMITH: I believe the provision we have here embodied in the report of the majority are in their present association original and we have not yet had time for them by any possibility, to have reached the Supreme Court of the United States, or any other court. There is not, therefore, and there could not possibly be any decision of the United States upon the questions here involved, and I frankly admit it. There has never been any provision touching any of these exceptions recently made in the southern States, except in Mississippi and in Mississippi they simply held that the provisions in themselves, were not unconstitutional, and that it had not been shown that they had been so operated as to exclude the negroes on account of race, color, or previous condition, etc. That is the only decision upon any question that has arisen directly in any of the southern States, but the limitations of the meaning of the term "suffrage" shall not be denied or abridged on account of race, color or previous condition of servitude, has been discussed and defined in the slaughter house case, the Kruickshanks

case, the Reese case, the Williams case, and in Minor against Happersetts, and it is upon those definitions, and our deductions from those definitions under well set principles of law, that I draw one set of conclusions as distinguished from another set drawn by the minority of the committee. The gentleman from Montgomery, however, has not drawn his conclusions, so far as his argument indicates, from these decisions. He drew his from decisions upon entirely a different subject, providing entirely different things.

Mr. OATES: You don't call them by name. There are so many of us.

Mr. SMITH: I could not call him ex-Governor. That would not be definite, I refer to Governor Jones.

Mr. FERGUSON: I want to ask another question. If the right of franchise were conferred upon the early settlers of Alabama and their descendants I will ask the gentleman if he would consider that a class distinction.

Mr. SMITH: If, as I have said several times, on several occasions, you admitted those descendants to vote, and admitted nobody else, then that would be saying the white man can vote, and the negro cannot, but if you do it in association with a provision like our good character provision, which says that every negro can vote who has the proper qualifications to vote, who has any business voting and who knows anything about the exercise of suffrage and then in addition to that every descendant of a first settler can vote, I think it would be constitutional. I think it would be a class distinction as strong as the distinction against the sow of the gentleman from Jefferson, but I think it would be a lawful discrimination, and not an unlawful one. To return to where I started. Is a matter left entirely to the discretion of the registrar. I know of no scheme that has ever been adopted for the purpose of registering voters, whereby a lot of machinery is arranged for a court trial, in advance, before the registrars have acted. In nearly every State it is a system of registration. In connecticut, 'way back in 1639, here is the way they did it. "The freemen of the town—there were three towns in that State at that time—Hartford, Weatherfield and I think the other was Westford—I am not sure. There were three towns. They met at the town hall, and they simply elected those who should have the right to vote. It was not a question of qualification, the people already having the right to vote, got together and said whether they would let anybody else vote, and if so, who they would let vote. Was that arbitrary? No qualification, no discrimination. What was the next step they took? They adopted as qualification a property and behavior basis. They said this man could go around among the freemen, and get them to cer-

tify that they thought he ought to vote; then he carried that certificate to the selected men, and they said he could vote, and if they said he could vote he did vote. What was the next step? It was to require every man who wanted to vote to send a certificate of good character to the legislature, and the legislature passed an act that Jones, Smith and Brown might vote, and they were thereby admitted to the electorate. What was the next step they took, and that is the final one? They held meetings of their select men, there are from three to seven of them, and applications were made to them for admission as a free man, which gave the right to vote and those select men determined who should vote and who should not vote. After a similar course, Vermont has come to the same result. Nobody has ever heard of this being a scheme which was never been declared unconstitutional or fraudulent. What are the provisions here? The provisions in the first place are not that any registrar, as said by Chancellor Kelly, can come along with a book in his hand and register a man on the high road. The provision is that every man must be registered in the first place by the Board of Registrars—not by an individual member of that board. He must be registered either in his own precinct, or in his own county site. If they refuse him the right of registration, he can, by simply filing a petition in the Circuit Court, take an appeal and have his right to vote tried by a jury. That body of men that has been organized ever since this country existed, and long before, to pass upon the rights, the life, liberty, and property of every citizen. It is given the same right, but with less expense, than you are given when your liberty is at stake, that you are given when your life is at stake, that you are given when your property is at stake. Is this opening the doors for fraud, or is it treating it and throwing around it the safeguards that are thrown around the dearest rights of our race? If not satisfied, if the judge has fraudulently charged the jury as to what constitutes good character, or the duties and obligations of citizenship, or as to what the qualifications really are, he can take an appeal to the Supreme Court of the State, and have the correctness of the charge determined.

Mr. SANFORD (Montgomery): Won't that cost him money?

Mr. SMITH: Yes, sir; beyond any question. It costs him money to preserve his life, it costs him money to preserve his liberty, it costs him money to preserve his property but this is no hardship if his franchise is as dear to him as it is claimed to be by those who are trying to carry this question to the United States Supreme Court, in order to keep the white people out of this country, out of their own. Men can pay for the determination of that right as they pay for all other justice in

this world. So it seems to me that while it may be open to fraud, every thing is open to fraud, and this right is guarded as fully and completely as it is possible to guard and protect a human right. A man may forge my note; a man may burglarge my house; a man can commit any class of fraud. The human mind can devise a
72 plan to evade every safeguard that the human mind can devise, and if we sit here and discard one remedy after another until we find one that will close out all possibility of fraud we will sit here forever and forever.

Now, in conclusion, I want to say that I do not join in the belief that the people in the Black Belt intend or expect to perpetrate these frauds, that they are suspected of. You and every one of you know they have been seeking the occasion that has now arisen for striking the shackles from them that have heretofore bound them. You and all of you know that they were in full charge of their elections, you know that they control the vote of their country, or their section of the country, and that there is not half the danger of the negro vote controlling politics in their particular section that there is of their controlling poltics where he merely holds the balance of power. Why have these people sought this occasion for relief? Did they hope or expect that by purifying the ballot and lawfully restricting the number of negroes who can vote, that they could get a larger representation or can more completely control the negro than at present? Certainly not. If they wanted to operate through the negro so as to defraud the balance of the State, they had no occasion to call this convention, and passing constitutional provisions such as these. Now, why do you believe that they have taken this trouble; that they have cried for this relief for years; that they are here aiding us in obtaining some method by which the vicious and illiterate negro will be excluded, if behind it all you believe it is their purpose to do just what they could do, just what they have been doing, without the convening of this convention? I believe, and I think any thinking man will believe, that the Black Belt is as earnest and serious as we are in the desire to rid themselves of these frauds. I believe the measure which has been recommended to you by the Committee on Suffrage will accomplish that purpose. I believe they will live up to the purpose so accomplished, and they will be thankful that they can rest assured that their children can abandon the paths of fraud and trickery, in political affairs, and live as pure and undefiled in that respect as any other part of the State. It is for their children, the purity of their children, and the honesty and integrity of their race, that they come here, and I think that we can trust any citizen of this State, whether he from the southern end of the State or from the hill counties,

or any other counties, and I think that in this matter we can trust the gentlemen from the Black Belt.

Mr. SPEARS: Mr. President and gentlemen of the convention: Our fathers had to deal with the negro as a slave, we have to deal with him as a citizen of the United States. By what power, by what authority, was the negro made a citizen? By the National Government. By what power, by what authority, was the right of suffrage, or the right to vote, conferred upon the negro? By the National Government. Suppose that the State of Alabama had never given her assent to the Fifteenth Amendment. Suppose the State of Alabama had never held a constitutional convention. Suppose that the State of Alabama had never changed her constitution and her laws in regard to the negro as a citizen. Could he have voted? Most assuredly he could. Then, gentlemen, you must admit that the negro got his right to vote from the National Government, and not from the State of Alabama. Can the State of Alabama undo what the National Government has done? Can the State of Alabama tear down and destroy what the National Government has built up? Can the State of Alabama take from the negro that which the National Government conferred upon him? You answer the question. Now, gentlemen of the convention, there is one fearful thought that must necessarily come up in the mind of any sensible man when he contemplates the practical operation of the ordinance that we have under consideration. What will be the practical effect if we adopt this ordinance? It will be to disfranchise every voter in Alabama temporarily at least. It will be to deprive 375,000 citizens that are now voters of the right to vote, and turn them over to 198 registrars that may be appointed by the Governor, and all those registrars are to be Democrats. Disfranchise all the Republicans, all the Populists, all the Democrats, all the white men, and all the black men, and turn them over to 198 partisan registrars, that is the proposition before the convention. Now, Mr. President and gentlemen, while we are discussing the suffrage question, we should not forget that all the qualified voters in Alabama have taken an oath to support the Constitution of the United States. They had to take that oath before they could register as voters. The law requires it. The white people of the State through their white representatives, made the law. They made it freely and voluntarily without any constraint or coercion on the part of the Federal Government or any other power. When we first entered this hall as delegates—

Mr. DE GRAFFENREID: May I ask a question?

Mr. SPEARS: I do not want to be interrupted.

When we first entered this hall as delegates, the Chief Justice of the Supreme Court of the State required all of us to hold up our right hand and solemnly swear that we would support the Constitution of the United States; we had to do this before we were allowed to enter upon the discharge of our duties, before we were allowed to commence the work of framing a new constitution. The Enabling Act required it; the General Assembly had thought it necessary. This oath, gentlemen, had been registered in heaven, where the angels will keep it and guard it until judgment day; then when all the people in all the races of humanity that have lived in all the ages shall have gathered together; when the old clock of time shall strike her last stroke; when the President of the Universe shall call that great convention to order; when the clerk shall open the great journal, and call the great long roll, you and I, Mr. President, and all of us will either have to stand up or fall down on our faces and answer how we have kept this oath. Let us hope, let us trust, let us pray, that no delegate of this convention will have to fall down on his face. Now, Mr. President and gentlemen, since we have so solemnly bound ourselves, since our constituents, since all the qualified voters of Alabama have so solemnly bound themselves not to do anything that will in any way conflict with the Federal constitution, it becomes our most serious duty to inquire itno and acquaint ourselves with every provision and requirement of that instrument on the subject of suffrage, and all other subjects with which we may have to deal.

The first section of the Fourteenth Article of the Federal Constitution reads as follows: "All persons born, or naturalized, in the United States, and subject to the jurisdiction thereof, are citizens of the United States, are of the State wherein they reside. No such State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States. Nor shall any State deprive any persons of life, nor deny to any person within its jurisdiction the equal protection of the law." That is the Fourteenth Amendment. There is nothing obscure or mysterious about it. It is written in plain language of the common people. They understand it. They do not need judge, or any court, or any United States Senator to interpret for them these old familiar words of their mother tongue. In that first section the National Government by constitutional enactment has defined and made clear to the minds of all men the terms "citizens of the United States." In that section the National Government has declared in the most solemn manner known to men that no State in this Union shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor to deny to any citizen within its jurisdiction the equal protection of the law.

Now the queries comes up, is voting a privilege? Have courts held that voting is a privilege rather than a right? Not many days ago when this convention had under consideration the declaration of rights, we adopted this section which declares that voting is a privilege. If voting is a privilege then the ordinances that we are now considering is clearly in conflict with the first section of the Fourteenth Amendment which I have just quoted. Under the present constitution and laws of the State of Alabama, all men, all male citizens of the United States, 21 years old and upwards, who have resided in this State one year, three months in the county, thirty days in the precinct or ward, are entitled to vote, unless they have been convicted of some infamous crime. We have never had in Alabama any poll tax, educational or property qualifications for voting. In this ordinance we have all these qualifications and many obnoxious embarrassments and restrictions thrown around the citizens to hinder and delay and in many cases prevent him from voting. A Registration Board is created for each county, to be composed of three men. They are given unlimited, arbitrary power. They may refuse to register the very best citizen with impunity. They are relieved from all legal liability. They are given a judicial character for the purpose of shielding them from prosecution in any court, civil or criminal, for any wrong or any remedy that they may see fit to perpetrate against any citizen by refusing to allow him to be registered. Now, gentlemen, will any delegate stand up and contend that the ordinance we are now considering does not abridge the privilege of voting, that the citizens have exercised and enjoyed in the State of Alabama ever since 1819. Some men say we have nothing to fear, for a violation of the Fourteenth Amendment, except that Congress may exercise its right and cut down our representation in the Lower House of Congress and in the Electoral College. Congress may or may not exercise this power. Whether it does or does not, can have nothing to do with making valid any violation of the Federal Constitution, and if the ordinance that we have under consideration is in violation of the Fourteenth Amendment, the Supreme Court of the United States on the proper application of any citizen of Alabama, whose constitutional privilege of voting may have been abridged, will so decide. Fourteenth Amendment was enacted for the protection of all men without regard to race or color. The Fifteenth Article of the Federal constitution, more familiarly known in Alabama as the Fifteenth Amendment, reads as follows:

"The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color or previous condition of servitude."

Some men say they believe that this amendment was aimed only at the southern States. That those persons who prepared it and procured its adoption were actuated by a desire to humiliate and degrade the southern people. With this view, gentlemen, I cannot agree. In my judgment the Fifteenth Amendment is not sectional, but naional in its character. It belongs to all the States of this Union with equal force. North, South, East and West. It not only prohibits the States from disfranchising them on account of race, color or previous condition of servitude, but it prevents and prohibits the United States Government of depriving them of the right to vote on account of race, color or previous condition of servitude. It prohibits the President, Congress and the Supreme Court of the United States, they are as much bound by the Fifteenth Amendment as the State of Alabama. This Fifteenth Amendment, gentlemen, protects the naturalized Chinaman from being disfranchised by the State of California. It prohibits the State of North Carolina from disfranchising the Indians, who are citizens of the United States and living within their jurisdiction. It prohibits the State of Alabama from disfranchising a negro because he belongs to the African race, because of his color, or because he was once a slave. It will prevent the State of Massachusetts as well as the State of Mississippi from disfranchising the Filipino when he comes to live in this country so I say that the Fifteenth Amendment is not sectional, but National in its character.

Mr. SAMFORD: Will the gentleman permit himself to be interrupted?

Mr. SPEARS: I don't want to be interrupted.

Some gentlemen say that this ordinance is not in conflict with the Fifteenth Amendment. Do they believe what they say. They seem to be in earnest and I would ask the gentlemen in all sincerity pray tell us by what process of reasoning you have been able to bring yourself to this conclusion. The common people of the State see the discriminaton at a glance. The women and children know it and it is common talk everywhere that this ordinance discriminates against the negro as a race. Some gentlemen say that they hope to live long enough to see the Fifteenth Amendment repealed. I would ask them if they hope to live long enough to see the death of this republic. We have only had fifteen amendments added to our National Constitution since it was signed by Washington and the fathers of this republic, and in my judgment, with all due respect to every man in this convention, the Thirteenth, Fourteenth and Fifteenth Amendments that have been pinned to the beautiful Goddess of Liberty from time to time, these three last amendments have added more to her beauty, more to her strength and more to her glory than all the others, notwith-

standing they were pinned upon her beautiful form by the bloody hands of war.

Now, gentlemen, I want to take up this Board of Registration, and I hope that you will give me your attention. There has been considerable interest aroused throughout this State by reason of the publication of the letter of Senator John T. Morgan against the grandfather clause. The effort of the Senator and the gentlemen comprising the minority of the committee, reminds me of some old ladies striking at the tail of a snake. If the Senator and the minority of the committee want to do harm to this hideous monster, if they want to kill this serpent that is about to beguile this convention, why do not you hit it on the head. Why do you not strike at the seat of poison,

why do you not hit the Board of Registration? What
73 a beautiful system is this Board of Registration, com-
posed of three partisans appointed by partisan Governors on the recommendation of a partisan county committee, and to do what. O, they say if this board don't register every man that wants to be registered he can take an appeal to the Circuit Court or courts of like jurisdiction by filing a petition in thirty days. That makes it necessary for him to employ a lawyer. He has to go to the Circuit Court. He cannot appeal to a jury and have the case tried near his home, where his witnesses are necessarily bound to live. No, he must go to the Circuit Court, at the court house, it may be 25 miles from where he lives. He has got to take his witnesses with him and when he gets there all the presumptions are against him. The whole scheme is against him. The clerk of the court has informed the solicitors who represents the State and who is there to contest the citizen's right. The burden of proof is upon him. He is presumed not to be entitled to vote. He goes before the court and the jury under a cloud, has to be tried by twelve men and he must convince all twelve of them that he is entitled to vote. Notwithstanding that eleven of the jurors may be convinced that the citizen is entitled to vote, yet if one is not so convinced he is thrown into costs and disgraced and disfranchised in his county. If you want to purge the electorate, if you want to purify the ballot, if you want to do the clean thing by the people why did you not appoint a board of three honest men and tell them to go into each county and take the list of registered voters and whenever they came to a man that was not entitled to vote to strike him from the list and give him notice and let him take an appeal to the court, and let the burden of proof be upon the State. Let him go to court with a presumption in his favor and let the burden of proof be on the State, and let the State be required to make out its case against the citizen. That is what you should do if you want to do the fair thing. Why, here you have reversed the whole

machinery of the common law. You have turned back the hands on the clock of civilization a thousand years, I am astonished at you. No man will ve envied by anybody after he has cast his vote for this Registration Board. When he does it, melancholia will seize him and claim him for its own. He will never occupy his seat in the United States Senate. The cruel hand of fate will write across his forehead in great big black letters "Political Failure." The hand of destiny will take him up from off the floor of this convention and pitch him over into the pest house of Alabama politics and there he will be left on the political scrap pile. There he will remain for the balance of his days in a state of miserable political quarantine, and when the hour of dissolution shall overtake him, when the cold but welcome hand of death shall be laid upon his aching head to still and quiet his painful heart, sad and disappointed loved ones will carry him out and at the dead of night inter him in a political potters field. On his grave no grass will grow, around his grave no flowers will bloom, about his grave no bird shall sing.

Mr. FREEMAN: Will the gentleman yield for a moment?

Mr. SPEARS: I don't like to be interrupted. My time is going on—

Mr. FREEMAN: I want to make a motion to extend your time forty minutes in order that you may finish your argument.

Mr. SPEARS: I don't know what time it is by the o'clock I may finish in a few minutes.

Mr. FREEMAN: It is only about two or three minutes of six o'clock.

Mr. SPEARS: I would like for the convention to give me the time. I have not bothered this convention since I have been here and have not tried to make a speech since I have been here.

Mr. FREEMAN: I move to extend the gentleman's time forty minutes in the morning.

Mr. GRAHAM (Talladega): I would like to ask the gentleman a question. I would like to ask the gentleman if he is in favor of disfranchising any white man in Alabama.

Mr. SPEERS: I am not.

Mr. GRAHAM (Talladega): I will ask the gentleman if he is in favor of disfranchising any negro?

Mr. SPEERS: Some of them I am, but most of them I am not.

Upon a vote being taken the motion to extend the time of the gentleman forty minutes in the morning was carried.

Mr. SPEERS: I thank you, gentlemen, I have certainly tried not to trespass upon the patience of this convention. I have a right to express myself upon the great questions before the

convention. I would not be true to myself, I would not be true to my convictions; I would not be true to the people who sent me here if I hesitated to present my views upon these questions.

The gentleman from Talladega has seen fit to ask me a question here in a white convention, in a white country, under a white government, if I would be in favor of disfranchising a white man. He had no right to make any such insinuation. I have my convictions in regard to the disfranchisement of the negro. I do not believe it is right to disfranchise any man simply because he is a negro, but I think it is right and proper to disfranchise any man who will sell his vote or commit any other crime. I have always stood that way and I stand that way today. I will defer my further remarks until tomorrow morning.

Mr. PORTOR: I move that this convention do now adjourn.

Indefinite leave of absence was granted Mr. Freeman on account of sickness; leave of absence was granted Mr. Thompson for tomorrow and Monday; Mr. Carmichael (Coffee) for Saturday; Mr. Malone for tomorrow and Mr. Henderson of Pike for tomorrow.

The convention thereupon adjourned.

Official Report of the Proceedings of the Constitutional Convention of Alabama.

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Fifty-sixth Day.

MONTGOMERY, ALA., SATURDAY, *July* 27, 1901.

The convention met pursuant to adjournment, was called to order by the president, and opened with prayer.

The special order for this morning will be the consideration of the report of the Committee on Suffrage and Elections. The gentleman from St. Clair has the floor.

Mr. SPEERS: Mr. President and gentlemen of the convention: In reply further to the question that was propounded by the gentleman from Talladega yesterday, just before I had closed my remarks. I wish to say that in my judgment, a majority of the negroes of Alabama pay their honest debts, pay their taxes, work the public roads, and abide by the laws of the State. I wish further to state, Mr. President and gentlemen of the convention, that of a population of 1,800,000 people, 800,000 of this population in Alabama are negroes, and I wish to state, and have it placed upon the record, that these negroes constitute at least three-fifths of the agricultural labor of this State. Now, then, Mr.

President and gentlemen of the convention, the question comes up, if this negro population has to bear the burdens of citizenship, if this negro population, a majority of whom are law abiding citizens, have to perform the duties of citizenship, the question is, and I put it to every honest man, should they not be allowed to enjoy the privileges of a citizen. If these people have to obey the laws of this country, if they have to be indicted by the law, and tried by the law, and convicted by the law, and executed and punished by the law, is it not right and proper and just that they should have a voice in this election of the men who make the law, and the men who administer the law and execute the law. I am no negro man, no more than any man on this floor. I am a white man. I am proud of my race, proud of my blood, proud of my ancestors, proud of my lineage, proud of my country, proud of my State, and proud of the fact that I live in a government and under a government that is willing to do justice to all people of all races. I want to call attention to the fact that the white people of this State own all of the lands, so to speak. They own all the money, they own all the houses, they do all the business, they own all the banks, they sell all the goods, they practice all the law, they hold all the offices, from the Governor down to baliff. They have control of the militia, they have got all the guns, they have got all the telegraph and railroads and telephones and furnaces and factories and foundries. They have got the education, they have got a thousand years advantage of the negro race in civilization. I for one am proud that I belong to the white race, I am proud to stand here today and state in my place, that I believe that God Almighty made the white man superior in the beginning, and with all of the advantages that we have over the negro, am not afraid of the negro. I am not afraid and I will not stand up here and stultify myself and reflect upon my race and my blood, by saying that with all these advantages there is danger of negro rule. But gentlemen, we have 800,000 negroes in the State. Is it good policy, is it a part of statesmanship, thus to legislate and make a constitution and make laws that are unfair and unjust to such a great proportion of our population? Is it good policy to make enemies of these people, is it good policy to make them feel that the hand of the law and the hand of the power of the State is against them? Is that good policy? Where is your Democratic doctrine of State sovereignty, where is that principle you have always professed to believe in that the citizen should think more of his State that it does of the National Government? Do you want to pursue a course that will teach the negro to feel that the State of Alabama is his enemy. Do you want to pursue a course and a policy that will make the negro look to Washington and not to Montgomery for protec-

tion? Which is the best policy? Now I understood our distinguished president to say on yesterday that the National Government had no power except that which has given to it by the States. Why if I remember correctly, that statement is nothing more than a restatement of the proposition that was made by Calhoun long years ago in the American Senate. It is nothing but the reaffirmation of the doctrine laid down by Calhoun and which was so completely answered by Webster. It is nothing but a reaffirmation of the doctrine that was exploded by the war. I suppose when Hawaii is admitted as a State, the gentleman will say it helped to create the United States. That Florida that we bought from Spain helped to make this government, and Louisiana and all that scope of country that we acquired from Mexico, and those people helped to make this country. I do not understand it that way.

I now come to the soldier "grandfather clause" incorporated in the article reported by the majority of the committee. I want to talk about that just a little. To my mind it is what some distinguished gentleman said when he referred to the Republican national platform some years ago, it is a miserable "makeshift." It is not a fraud because it lacks the element of premeditation, but it is a miserable makeshift. It only lasts for a little over a year. If it is a good thing, why not let in continue. If the blood that courses the veins of the soldier, whether he fought in the Union or the Confederate army, if that blood is good now it ought to be good 100 years from now, and why stop at the first day of January, 1903? Whence the difference? It is a makeshift, but for what purpose I have not been able to understand, unless it may be that if a law suit was commenced to test the constitutionality of the article on that account it would play out of its own operation and limitation before the Supreme Court of the United States could be brought to pass upon it. Now gentlemen I claim that this grandfather clause is clearly in conflict with the Fifteenth Amendment. Now suppose we strike out of this ordinance all that speaks of the soldiers and their descendants, and suppose we put in its place the following amendment that I will suggest. Understand me, I do not offer it, but I suggest it, and it would read this way: The following persons, and none other, shall be entitled to register and vote in this State. First, all male citizens of the United States 21 years old and upwards who have resided in the State of Alabama three years, in the county one year, in the precinct or ward three months, and who have been slaves or subjected to involuntary servitude; second, all the descendants of slaves and the descendants of persons that have been subjected to involuntary servitude. I imagine that the distinguished chairman of the Committee on Suffrage and Elections

would be the first man to spring to his feet and denounce it as a gross violation of the Fifteenth Amendment of the United States, and it would be true, he would be right, but it would be no more in violation of the Federal Constitution than this soldier grandfather clause. The descendants of white persons who have been subjected to involuntary servitude are as many as the descendants of the negroes that have been in the army, in the war with Spain or in any other war. Now what white man, if such a proposition as that were made here, would stand up and say it is not unconstitutional? It would be unconstitutional, but it is no more so than the grandfather clause in this article. Some men talk very loudly about the decisions of the courts in regard to the Fourteenth and Fifteenth Amendments of the Federal Constitution. I have a very high regard for the decisions of all courts when they have been in the proper sphere and jurisdiction of the courts, but I would have no patience with and no respect for the decision of any court that would decide that the Fourteenth and Fifteenth Amendments do not mean exactly what they say. I remember that on another occasion a high court in this country decided that a negro had no right in the United States that a white man was bound to respect. I remember that the greatest and the best man in the world rose up and denounced that decision, characterizing it as a covenant with the devil and a league with hell. I remember that the people of the United States soon after that decision was rendered, decided than when the liberty and inalienable right of the citizen is involved, that there is a higher power in this country than the courts. Another thing, gentlemen, that I want to call your attention to, is the fact that the Democratic party in Alabama, when it made the constitution in 1875, the constitution under which we are now living, made that constitution and wrote in it universal manhood suffrage. The white people, the Democratic party of Alabama, and other white men adopted it and ratified it, and it has been the law of this State for 25 years. If it was right then, it is right now. If it was good then it is good now. I stand on the constitution of 1875, that the white people and the white Democrats made, and I stand on a firm foundation. I have planted my feet upon the rock of universal manhood suffrage, and I am not afraid. I stand today where the fathers stood in 1776. Standing here on this rock with the rising sun of the twentieth century shining in my face, I am undismayed, I am not afraid that any evil will befall me when I stand up and defend liberty and universal suffrage, when I defend the doctrine that was handed down by Washington and Jefferson, Jackson and Lincoln, when I am inspired by such a lofty motive and such a high degree of patriotism I fear neither man, beast nor devil. I care nothing for the traitors

in the State nor the hypocrites in the church. I stand where Jefferson stood when he declared in the face of kings and tyrants that all men are created equal and endowed with certain inalienable rights, that taxation without representation is oppression, that all just governments are founded in the consent of the governed. I stand where Andrew Jackson stood when he declared that the Union must and should be preserved, when he swore by the Eternal God that South Carolina nor no other State could nullify the law of the National Government. I stand where Lincoln stood when he said this is a government "of the people, for the people and by the people." Right here, Mr. President and gentlemen of the convention, let me ask a question. Have we in this convention a greater statesman, a greater lover of liberty, a greater publican, a greater Populist than Thomas Jefferson? If so point him out that I may go and touch the hem of his garment. Have we, gentlemen of this convention, a greater American, a greater Democrat, than Old Hickory Jackson? If so, let him stand forth and we will stand up and shout Glory Hallelujah. Have we in our midst a greater patriot, a greater lover of justice, a greater commoner, a greater friend of humanity than the immotal Lincoln? If so, I desire to remove my shoes from my feet and bow my head in silent reverence, because if we have with us such spirits as Jefferson and Jackson and Lincoln, then, indeed, then in truth, has this cradle of the southern Confederacy become a holy place. I thank you, gentlemen.

The PRESIDENT pro tem: The gentleman from Montgomery (Mr. Watts).

Mr. O'NEAL (Lauderdale): That the argument of the gentleman from Montgomery may not be interrupted, I move that his time be extended 30 minutes.

The motion to extend the gentleman's time was carried.

Mr. WATTS: Mr. President, I favor the majority report. I believe that it is within the Constitution of the United States. I believe that added to the arguments that have been advanced by the distinguished gentlemen who have preceded me on this side of the question I can produce some other arguments which will convince a reasonable man of the perfect constitutionality of this provision. I have not the happy fortune, Mr. President, to have been like some of my colleagues upon this floor, a soldier in the war between the States, for the last tocsin of war had been sounded and the stars and bars had been furled at Appomattox before I was 12 years of age, but I had a patriotic mother and I had a father whose heart was in the cause and who taught me to have such a reverence for Mr. Davis and for those who upheld that cause, that the impression will remain

with me as long as life shall last. I am one of these Black Belt Democrats, one of these men who have been spoken of upon the floor of this convention, intimating at least, as having the intention of perpetuating frauds by means of this registration. Why, gentlemen, those who talk that way do not know what the Black Belt has suffered. As a school boy 19 years of age I helped to carry a city election in this town when we had to have a riot to do it. After I had come from school, under the leadership of Gen. James H. Clanton, whose picture hangs above us yonder, and who was one of the bravest men that ever lived in Alabama, we stood at the courthouse in this city and drove back the black cohorts who were trying to keep the white men of Montgomery from getting to the polls. We have had that sort of thing to deal with in the Black Belt. There was
75 bloodshed; there was riot not only in Alabama, but in the other southern States. Then fraud was resorted to as being the less hurtful to the negro in a bodily sense, and upon the principle that evil might be done that good might come from it. The Democrats of the Black Belt have stood to their post, have been in the ballot box and counted out the negro in order to preserve the political welfare of the whole State of Alabama. But, Mr. President, the time has come when we are tired of it. We want the day of honest elections to dawn in this fair State. We don't want anyone to be able to point a finger at Alabama and say that a fair election is not held there. We men of the Black Belt want to get down to honest methods. Can you doubt it, gentlemen? Would you be sitting here in this hall today but for the Black Belt? What section of the country was it that came up en masse in favor of this measure and in favor of this convention? Was it not the Black Belt—Dallas, Lowndes, Montgomery, Bullock, Russell and these other counties that have stood to you since 1874, when we helped you to elect the bald eagle of the mountain as the Governor of Alabama. If we wanted to perpetuate fraud why did we want this convention? We could have continued it, we could have continued our representation by simply going along under the law we had, but we have come here and you have increased the number of representatives to 105, and not one of the increase comes from the Black Belt. That seems to me the greatest proof the convention could have that the Black Belt has no idea and no intention of perpetuating the frauds that seem to be charged against it. I am a little surprised, Mr. President, that the opponents of this majority report should not at least have been on some uniform plan. We find that the gentleman from Barbour (Mr. Dant), the gentlemen from Montgomery (Mr. Oates and Mr. Jones), the gentlemen from Jefferson (Mr. White and Mr. Ferguson)

and other gentlemen have gone upon the question of constitutionality. We find Mr. Speers in wandering around through the decisions has utterly misapprehended them, but we find that he and Mr. Lowe have taken a position that the form of registration is but a new kind of fraud. These men who compose the Suffrage Committee are as good men as there are in this convention. They are men who stand well among their fellow men. They have stood well in this State up to this good day, and even the minority of that committee recommended the same registration scheme. Some of the minority have already occupied high positions in this State, others perhaps are destined to occupy high positions, yet not one single member of that committee makes a minority report against that scheme. Is it possible gentlemen that twenty-five members of this convention could be so foreign to all of their past character, to all right and honesty, as to come into this convention and propose for its adoption a deliberate fraud? I say that we are bound to dismiss any such thought from our minds. What is this plan which these gentlemen have submitted? In the first place you must be a citizen of the United States and of the State of Alabama, and by the amendment you must have declared your intention to become a citizen. You must have resided two years in the State, one year in the county, and three months in the precinct, you must not have been convicted of any of the offenses mentioned and up to January 1st 1903 you must have either been a soldier in one of the wars mentioned, a descendant of a soldier or must have good character and be able to understand the principles of republican government. After 1903 any person may register who can either read or write, and has been engaged for the past twelve months in some employment or who has forty acres of land upon which he lives or $300 personal or real property assessed at that value for taxation. Those who register between now and the first of January 1903 are electors for life, provided each year as it comes round they pay the poll tax which is required up to the age of 45 years and each of the others is required to pay that poll tax each year when they register under the other scheme. There are two provisions that ought to be specially noticed. One is that the legislature may, if the courts should strike down any provision of this article, supply its place. The other is that nobody who cannot vote at an election shall be allowed to vote at a primary. Now it is said in reference to the first provision by the minority that it shows a weakness on the part of the majority, that it is a confession on their part that this is not constitutional? Not so, it is simply a precaution taken by the majority in view of the fact that the chairman of that committee as he stated to you here the other day know that the

Supreme Court of the United States is constantly changing and on these questions which deal with the negro we cannot tell what route they may take, and it is a part of wisdom therefore to put this provision in that article so that the legislature may supply a defect if one should occur. It is said by others, it is a useless provision because they say the legislature would have that power anyhow. Not so, because the other provisions of this article would prohibit the legislature from making any other qualification for suffrage, and therefore it is to our interest to keep that section. The other clause I refer to in reference to primaries will be of very great effect in ratifying this constitution. Whenever you get the white Republicans of Alabama to understand that hereafter in party councils the negro cannot participate because by the constitution of the State nobody can participate in primaries or conventions except a qualified elector, you will have in my judgment the united support of the white Republicans of Alabama, because by that means they will be able to control the politics of the Republican party in Alabama and be rid of the negro. I want to say this in reference to the plan, however, there is one small objection that I have to it. I do not like that word "civil" before the words "between the States."

Mr. COLEMAN (Green): It has been stricken out.

Mr. WATTS: I am glad to hear that, because it was not a civil war. That was settled when Chief Justice Chase advised President Johnston that President Davis was not amenable to treason. Now in order that we may understand this matter, let us turn for a moment to the Fifteenth Amendment. Its language is that, "The right of citizens of the United States to vote shall not be denied or abridged by the United States nor by any State. Mark you the language, the right of citizens of the United States to vote. Not the right of citizens of the State of Alabama to vote, but the right of the citizens of the United States to vote. What right then have the citizens of the United States to vote. They have only such rights, as was stated by the learned president of this convention, as the respective States choose to give them. Let us look back a little into the history of this government. For more than one hundred years before the articles of confederation were signed, old England and the people of the colonies which composed this Union had been treating the negro as a slave, and as having no rights which any man was bound to respect. They brought those feelings with them to America, and the early history of New England and the other colonies shows that laws were constantly enacted in those States in reference to the rights of the negro, and if you will

examine them you will find a striking similarity between them and the laws which were enacted in Alabama just prior to the war and since in reference to the negro race, in reference to schools, traveling on trains, the inter-marriage of negroes and whites, etc. Now when these thirteen colonies signed the Articles of Confederation, and when they said in there that all men are created equal they were not talking about the negro. Why? Because they spoke about the liberties of the citizens. When they wrote the Declaration of Independence they were not speaking about the negro. When the Constitution of the United States was written, it is as plainly written there as though it had been set down in so many words the negro is not a citizen and we are not talking about him. Why? Because in that very Constitution it is expressly written that the colonies until 1803 should have the right to continue the slave trade and without limitation. It is written that when the slave flies from the master into another State he must be given up. In view of that history, Mr. President, it has astonished me to see men like ex-Governor Oates, Mr. White of Jefferson, Mr. Dent of Barbour, and General Harrison of Lee, state their objections to this majority report because it is against the Jeffersonian doctrine of equal rights to all and special privileges to none. In the light of history Jefferson was not speaking of the negro. If you treat him as speaking of the negro in that remark you are bound to bring him down considerably in the estimation of the American people for wisdom and for truth, because with one hand he writes the Declaration of Independence and helps to frame the Constitution of the United States, and with the other, as it were, says that all men are equal—equal rights to all and special privileges to none. He was not speaking of the negro, and I am surprised, I say, to hear these gentlemen advocate the Jeffersonian doctrine as a solution of this difficulty. Mr. Speers also follows their lead. Mr. Speers took occasion to challenge a statement made by President Knox in reference to the citizenship of a State and of the United States, and said that that had been exploded by Webster long ago. If it had been exploded it is astonishing that the Supreme Court of the United States as late as 16 Wallace in the slaughter house cases still recognized the doctrine. I read from slaughter house cases in 16 Wallace: "It is quite clear, then, that there is a citizenship of the United States, and a citizenship of the State, which are distinct from each other, and which depends upon different characteristics or circumstances in the individual." Then skipping down a little in the opinion, speaking of the Fourteenth Amendment: "It is a little remarkable, if this clause was intended as a protection to the citizen of a State

against the legislative power of his own State, that the word citizen of the State should be left out when it is so carefully used and used in contradistinction to citizens of the United States, in the very sentence which precedes it. It is too clear that the change in the phraseology was adopted understandingly and with a purpose," and then, again, this judge says in the same case, speaking of the Fourteenth Amendment: "The constitutional provision there alluded to did not create those rights, which it called privileges and immunities of the citizens of this State. It threw around them in that clause no security for the citizen of the State in which they were claimed or exercised. Nor did it profess to control the power of the State government over the rights of its own citizens. Its sole purpose was to declare to the several States, that whatever those rights, as you grant or establish them to your own citizens, or as you limit or qualify, or impose restrictions upon their exercise, the same, neither more nor less, shall be the measure of the rights of citizens of other States within your jurisdiction. It would be the vainest show of learning to attempt to prove by citations of authority, that up to the adoption of the recent amendments, no claim or pretense was set up that those rights depended on the Federal government for their existence or protection, beyond the very few express limitations which the Federal Constitution imposed upon the States—such, for instance, as the prohibition against ex-post facto laws, bills of attainder, and laws impairing the obligation of contracts. But with the exception of these and a few other restrictions, the entire domain of the privileges and immunities of citizens of the States, as above defined, lay wthin the constitutional and legislative power of the States, and without that of the Federal government." I shall try to answer the different arguments made. The gentleman from St. Clair says that every man came into this convention and took a solemn oath to support the Constitution of the United States. So we did, and each of us, according to his own conscience will keep his oath. He speaks about the judgment day, and about the angel taking down the oath, and bringing it up against us, but let us hope, Mr. President, that any of us who should perhaps violate that oath blindly and unintentionally may be treated like it is said Uncle Toby was when he gave utterance to an oath in attending the French soldier and it is said that as the recording angel wrote it down she wiped it out with a tear. Now they talk about another thing, about the plan of our forefathers, and say let us go back to the plan of our forefathers. I have shown you what the plan of our forefathers was, to exclude the negro, to keep him from having even civil rights, much less political rights. We do not want to go back to the

plan of our fathers in that respect because we do insist that he shall have his civil rights and they never have been denied him in Alabama. Now let me pursue this right to vote. This country grew from the thirteen colonies until it numbered thirty States in 1856. At that time the country was startled by the announcement of the very principle which I have been speaking to you about, when Chief Justice Taney decided in the Dred-Scott case that the negro was not then and never had been a citizen of the United States, and he gave for it the very reasons which I have given, that in the formation of the government the negro was not considered the white man's equal, that the white man was his superior, and that the negro was treated so by the Articles of Confederation, by the Declaration of Independence and by the Constitption of the United States, by the acts of Congress, and by the decisions of the respective States. Why, even Massachusetts away back yonder in 5th Cushing decided that Massachusetts had a right to establish separate schools for the colored and white races. After that decision (Dred Scott case) was rendered, came this great hue and cry about the rights of the negro. The war came on. Abraham Lincoln proclaimed the emancipation of the slaves to take effect Jan-
76 uary 1, 1863. Now my friend from St. Clair says that these Amendments, the Thirteenth, Fourteenth and Fifteenth Amendments were not aimed at the South. . How any man familiar with history can make such an assertion I cannot understand. Why it is recognized by every writer on the subject that the Thirteenth Amendment was adopted for the purpose of carrying out the proclamation of President Lincoln, and for making effective the freedom of the negro. When they found the freedom of the negro did not give him those rights which they anticipated, when they did not find that the Soutern States were stumbling over each other to accord him the same rights as they gave to white citizens, then the Republican Party in power said we will strike them one more lick, and they enacted the Fourteenth Amendment, and that was to make the negro a citizen. They thought that that completed the job, they thought that when they said the negro was a citizen, that that would give him these rights, but lo and behold it did not. They found out that citizen did not mean a man with all of the political rights that the State gave. They thought of the fact that a woman being a citizen did not give her the right to vote, therefore they adopted the Fifteenth Amendment. Can it it be said that that was not aimed at the South? Where else in all this broad country did the negro predominate? New England had gotten rid of him by selling him to the South. He was here, he was interfer-

ing with our body polotic, he was not interfering with theirs. It was to force him upon us they passed the Fifteenth Amendment. Shortly after the Fifteenth Amendment was passed some women up in Michigan read the Fourteenth Amendment and saw that all persons born or naturalized in the United States and subject to the jurisdiction thereof were citizens of the United States and of the States in which they resided. She took it for granted that as she was a person that therefore she had a right to vote. It was refused her and she went to the Supreme Court of the United States and that Court decided that she did not have the right to vote because she was a woman, and that the policy of this Government was to give the right of suffrage to males and not to females, and that it did not make any difference if she was a person, and if the amendment did say every person was a citizen, that there were citizens who did not have the right to vote. Now pardon me for reading you something from that decision because I want to read it for the benefit of my friend from St. Clair and such other members of this convention who believe with him that the United States has a right to control votes in the State of Alabama. I read from the case of Minor vs. Happersett in 21st Wallace: "And still again, after the adoption of the Fourteenth Amendment, it was deemed necessary to adopt a Fifteenth as follows: 'The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude.' The Fourteenth Amendment had already provided that no State should make or enforce any law which should abridge the privilege or immunities of citizens of the United States. If suffrage was one of these privileges or immunities, why amend the constitution to prevent its being denied on account of race, etc. Nothing is more evident than that the greater must include the less, and if all were already protected, why go through with the form of amending the constitution to protect a part."

Again, for the benefit of my friend from St. Clair, I read from the case of Reese in 92nd U. S.: "The Fifteenth Amendment does not confer the right of suffrage upon any one. It prevents the States or the United States, however, from giving preference, in this particular, to one citizen of the United States over another, on account of race, color or previous condition of servitude. Before its adoption, this could be done. It was as much within the power of a State to exclude citizens of the United States from voting on account of race, etc., as it was on account of age, property or education. Now, it is not. If citizens of one race having certain qualifications, are permitted by law to vote, those of another having the same qualifications, must be."

Let us pause right there. There is the test: "If citizens of one race having certain qualifications are permitted to vote, those of another having the same qualifications must also be." Very well, we say the soldiers shall have the right to vote. If these qualifications apply to whites and negroes alike, all right. If they apply to whites alone, then the negro has not the qualifications which the white men have and cannot come up to it. Previous to this amendment there was no constitutional guarantee against this discrimination. Now there is. It follows that the amendment has invested the citizens of the United States with a new constitutional right which is within the protecting power of Congress.

That right is exemption from discrimination in the exercise of the elective franchise on account of race, color or previous condition of servitude. This under the express provisions of the second section of the amendment, Congress may enforce by 'appropriate legislation.'"

Now turn again to the Cruikshank case, 92nd U. S., by another Judge: "The Government of the United States, is one of delegated powers alone. Its authority is defined and limited by the Constitution. All powers not granted to it by that instrument are reserved to the States or the people. No rights can be acquired under the Constitution or laws of the United States, except such as the Government of the United States has the authority to grant or secure. All that cannot be so granted or secured are left under the protection of the States."

And again: "In the United States vs. Reese, just decided, we hold that the Fifteenth Amendment has invested the citizens of the United States with a new constitutional right, which is exemption from discrimination in the exercise of the elective franchise on account of race, color or previous condition of servitude. From this it appears that the right of suffrage is not a necessary attribute of national citizenship; but, that exemption from discrimination in the exercise of that right on account of race, etc., is. The right to vote in the States comes from the States.

Mr. HANDLEY: That's the doctrine.

Mr. WATTS (continuing to read): "but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States, but the last has been."

I have other authorities but I have not time to notice them, except incidentally to say that the same doctrine is held in Blacker vs. McPherson, 146 U. S., and in other cases. Now, mark you, another thing right there, the right of citizens of the United States to vote is a right which the State has given

to the citizen within its borders to vote. At the adoption of the Fourteenth Amendment, and if I am not mistaken at the adoption of the Fifteenth Amendment, no Southern State had given the negro the right to vote within its borders.

Now, gentlemen, I must hurry on. My friend from Jefferson, Mr. White says, "Could you provide a law that the people of the Black Belt should be governed by one law as to suffrage, different from that prevailing in other portions of the State? In other words, could you put a fence around them and say that they could vote under certain conditions entirely different from the balance of the State?" That seems to be his test. I answer yes. It has been expressly decided by the Supreme Court of the United States in the case of Lewis against Missouri, 120 U. S., and in later cases, that every State has the right and that Alabama has the right now set up one set of qualifications in one Congressional District for suffrage, and to set an entirely different set of qualifications in each of the other Congressional Districts, the only thing insisted upon being that whatever qualifications you provide for each district shall apply to every voter in it. He asks could we say that all straight haired men should vote and that those who do not have straight hair shall not. Let me read you something which may perhaps answer that question, a little better than I can. I read from the case of Williams vs. the State of Mississippi, 170 U. S.: "Restrained by the Federal Constitution from discriminating against the negro race, the convention discriminated against its characteristics, and the offenses to which its weaker members were prone, but nothing tangible can be deduced from this. If weakness were to be taken advantage of, it was to be done 'within the field of permissible action under the limitations imposed by the Federal Constitution, and the means of it were alleged characteristics of the negro race not the administration of the law, by the officers of the State. Besides, the operation of the constitution and laws is not limited by their language or effects to one race. They reach weak and vicious white men as well as weak and vicious negro men, and whatever is sinister in their intentions, if anything, can be prevented by both races, by the exertion of that duty which voluntarily pays taxes and refrains from crime."

Now while I have that book before me, permit me to refer to my learned friend from Montgomery, Governor Jones. Governor Jones said that when you read the proceedings of this convention in connection with what we adopt here, they will say that the evident purpose was to disfranchise the negro. Now what is the law on that subject? I am reading from a memorandum. I refer to the case of Blacker vs. Mc-

Pherson, 146 U. S.: "The framers of the constitution employed words in their natural sense, and where they are plain and clear, resort to collateral aids to interpret them is unnecessary and cannot be indulged in to narrow or enlarge the text." That is what the Supreme Court of the U. S. decided in reference to that. Then he says: "But the purpose is clear." Well let us see what the Supreme Court of the United States says about that in construing the Mississippi Constitution. "There is an allegation of the purpose of the convention to disfranchise citizen of the colored race, but with this we have no concern, unless the purpose is executed by the constitution or the laws or by those who administer them." So much for the purpose. So much for resorting to evidence aliunde to find out what our intention was. The Supreme Court say they do not care anything about the purpose. It does not make any difference about our purpose. The question is, what have we done? In that connection, I want to call your attention to two other cases in reference to what Governor Jones said. He told you about the queue case, and his argument was that the law would be construed in accordance with its administration. He might also have cited you the case of Yick We vs. Hopkins, 118 U. S., where the City of San Francisco enacted a law that nobody should have a laundry in any except a wooden building, and they construed that to be in its operations and in its language also, unconstitutional and void. But when you come later down the line, you will find in the case of Wood vs. Brush, 140 U. S., and Jugiro vs. Brush, 140 U. S., it was decided by that same Supreme Court "That a law so administered as to exclude negroes from the jury does not make the law otherwise constitutional, invalid." So that, if we pass a law which is valid, its administration is another thing. Now, then, who have we permitted to vote. We have permitted the soldier of the war of 1812, who bore that first flag of thirteen stars, representing the Union of the States, and the thirteen stripes which represented the thirteen colonies that formed this Union. We give that right to the soldier in the Mexican War. We give it to the Union soldier in the war between the States. We give it to the gallant bearer of the Stars and Bars and of the Bonnie Blue Flag. We give it to white, to black, to Confederate, to the Union soldiers, who, to the tune of Dixie and under the waves of Old Glory, helped the United States to make Spain keep her place. Is it not right that we should do so? We give it to their descendants; but, mark you, the State said we will adopt a new plan here. We have had ignorance and incompetency performing these political rights. Every man, whether he knew anything about the duties of citizenship or not, we have permitted to vote. We will stop

that, and we will say that hereafter only men of good character shall vote. With this exception, we open the big gate. We say anybody, everybody, white or black, who has a good character, and who understands the principles of republican form of government, can walk in; but we say to those old soldiers and to the sons of old soldiers, even if you have not these characteristics, we will let you in, too, because of the valor of yourselves and fathers, and the debt we owe you from this State. It must be remembered that these are disjunctive qualifications and not conjunctive. A man is not bound to possess all of them. He is not bound to be an old soldier, the son of a soldier, and a man of good character all at the same time. Either will do. Why, they say we discriminate. Hasn't the United States Government made a discrimination when it awarded pensions to its old soldiers? Doesn't it recognize the alleged doctrine of inheritance, when it says the pension shall continue to the soldier's widow. Hasn't Alabama adopted the same thing in levying a tax each year for the pensioning of the Confederate soldier and for his widow? More than that, Mr. President, the Constitution of Massachusetts, as I have it before me, while it lays down a qualification for every citizen in this State, when it comes to end up, it says, But the soldier shall be exempted from certain of them. Read it for yourselves; it is there. Who has attempted to declare the Constitution of Massachusetts unconstitutional, and in violation of the Fifteenth Amendment because it made that exception in favor of soldiers? Shall we do it here?

Now, one other thing, before my time runs out. Something has been said about representation—about our representation being reduced. Let me call your attention to one thing that will strike every thinking man at once, and that this is this: The only authority that Congress has to reduce the represen-
77 tation of the South is under the second section of the Fourteenth Amendment; that says that they shall reduce the representation in proportion to the number of male citizens who are excluded from voting. How are you going to arrive at the proportion? How is Congress ever going to know how many of the male citizens of Alabama are excluded from voting, and thus apportion our representation, until a new census is taken, which new census shall show how many people there are in the State who can read and write, and who are of good character, and who are old soldiers, or who are descendants of soldiers, and who are left out by this provision? You are bound to have figures before you can get a proporition? Every school boy knows that.

Mr. DE GRAFFENREID: Will the gentleman suspend for the purpose of letting me make a motion? I want you to have plenty of time.

Mr. WATTS: I don't want more than fifteen minutes.

Mr. DE GRAFFENREID: I move that the rules be suspended, and that the gentleman be allowed twenty minutes, or as long as it is necessary for him to finish his speech.

Upon a vote being taken, the motion was carried and the time of the gentleman extended.

Mr. WATTS: If you will look at the Constitution of Connecticut—you have got it in these published pamphlets here—you will see that they have made a provision here for voting, based upon education, and you will find in the early history of this country, almost every constitution was based upon some qualification of citizenship, specially set out. My friend from St. Clair says, You go to these registrars; they are clothed with judicial power; they refuse you the right to vote, and you appeal to the Circuit Court instead of to a justice of the peace; people are prejudiced against you, and it remains with the ipse dixit of the registrars as to whether or not you shall vote. Has he forgotten that by the naturalization laws of the United States, unless he shows that he is a man of good character, and that he understands the duties of citizenship, and if the United States puts that test upon foreigners who come here to become a part of our body politic, how can it possibly be unconstitutional for the State of Alabama to demand of her citizens intelligence and good character? My friend, Governor Jones, erroneously says, and unintentionally, no doubt, that the Fifteenth Amendment places negroes on an equality with the whites. He is too good a lawyer, if he has read the decisions, to say that. The Supreme Court of the United States in the Cruikshank case, said that the Fourteenth Amendment was intended to prevent the arbitrary exercise by the State of the powers of government unrestricted by the established principles of private rights and public justice. The Supreme Court of the United States in Reese vs. U. S., 100 U. S.; in Neal vs. Delaware, 103 U. S.; in Bush vs. Kentucky, 107 U. S.; in Plessy vs. Ferguson, 163 U. S., said that as to civil rights, the negro was placed by the Fourteenth Amendment on the same level with the white man, with rights and responsibilities exactly the same, but in some of those same cases, said that the right to vote was not among the rights and privileges mentioned in the Fourteenth Amendment. And if it should come to the question as to what will be allowed under the Fourteenth Amendment, you would find that in the Kentucky tax cases, 115 U. S., and in McGoun vs. Illinois, 17 U. S., is was said that the Fourteenth Amendment only requires the same means and methods to be applied impartially to all the constituents of each class so that the law shall operate equally and uniformly upon all persons in similar cir-

cumstances. The difference between the gentleman from Jefferson (Mr. White) and myself in that respect is that he put it in his minority report that all citizens cannot conform to it. That is not the rule. The rule is that it must be the same under similar circumstances, and that only applies to civil rights, but if you take his form of it, then a woman or child could never get the right to vote.

Mr. DE GRAFFENREID: May I interrupt the gentleman?

Mr. WATTS: Yes, sir.

Mr. DE GRAFFENREID: In the Constitution of Pennsylvania, when it went into the United States, there was a provision that all people who paid a certain tax within ten days before the election should be permitted to vote, but there was a provision that the children of freeholders should not be required to pay the tax. Was that a standard to which all citizens could attain?

Mr. WATTS: Certainly not, and nobody ever questioned the constitutionality of that provision.

Now, something more about the Fourteenth Amendment. In the Kentucky and Illinois cases above cited, it is said: "It may safely be said that the rule of construction of the Fourteenth Amendment—the equal protection clause of the Fourteenth Amendment—prescribes no rigid equality, and permits the discretion and wisdom of the State a wide latitude as far as interference by this court is concerned," and then again, in the case of Mobile vs. Kimball, 102 U. S., it is said: "This court is not a harbor in which can be found refuge from ill-advised, unequal and oppressive legislation." And in Magoun vs. Illinois, 170 U. S., it is said: "It is hardly necessary to say that hardship, impolicy or injustice of State laws is not necessarily an objection to their constitutional validity."

Now, Mr. President, we ought to bear in mind how this law affects the people of this State. According to my information about 87 per cent. of the white people of this State can read and write. There are some old soldiers, perhaps sons of soldiers, who have not been enabled to read and write. They are no doubt of good character; they may understand the duties of citizenship. It has been said that some of them are unworthy. That may be so, but whether it be so or not, do not let us exclude from voting the worthy ones of this class, or these classes, if by permitting them to vote, perchance, we may permit unworthy ones to enter also.

Now, Mr. President, I have spoken longer than I intended to speak. I will not worry this convention by referring further to the authorities. I simply want to say to this convention: That we of the Black Belt are in earnest when we say we want this fraud in elections stopped. Fraud in elections leads

to fraud in something else. The teaching of the young men that it is right to swindle in elections is but one step from teaching them it is right to do it in other things. It has been a necessity in the past. Let it not be so in the future. I have heard men in his county—men whom I know have election after election stood at the polls and carried the election for the Democracy raise their hand to Almighty God and swear that, come what will, they will not do it again for anybody or under any circumstances, and I want to be able to go back to them and tell them that if they adopt this constitution which we have made here, if they adopt it with this suffrage plank in it, that necessity will forever be gone. I want to remove from the name of this fair State, the charge of fraudulent elections. I want to improve the citizenship of this section. You could not improve it as far as everything else is concerned. You could improve it only in that one particular, because we have as good citizens in the Black Belt as can be found anywhere on God's green earth, but I beg you, gentlemen, to pass this article. Adopt this law. Send it to the people. Let them ratify our action, and by their ratification, let us of Alabama and of the Black Belt be relieved once for all from the body of this curse. (Applause.)

Mr. CUNNINGHAM (Jefferson): Recognizing the conditions as they exist in Alabama, and believing that these conditions are not for the best interest of this State, now and hereafter, and being sincerely desirous to bring about the best conditions for my country, I have as a citizen, and as a member of the State Senate, and as President of that body, done everything in my power to bring about this constitutional convention. I would, therefore, be untrue to myself, and disloyal to those who have honored me by nominating me twice, and electing me once as a delegate from my Senatorial district to a convention for the purpose of revising the constitution of the State, if I were to refuse the present opportunity.

I must submit a few remarks to the convention, but I am free to confess that I hardly know what to say. I might indulge in throwing a few flowers at both the majority and minority of the committee, but inasmuch as each has promised the other a funeral procession, I thought I would wait and see which it was, and then I will furnish the flowers as a wreath for the monument of the majority report, or the tombstone of the minority report. I will wait until the people decide that question, before I make use of any flowers.

The constitutionality of this proposition has been thoroughly discussed by able jurists. They are lawyers, I believe, when they are at home, but they are jurists in this convention. Many times I have wished in my life that I was a lawyer. This is one time I am glad that I am not. If I were a lawyer I

would not only be expected to have a conscience, but I would also be expected to have an opinion, the lawyers here on the contrary only have an opinion, and leave the conscience to rest. (Laughter.)

Now as I say the question as to the constitutionality of the measure has been thoroughly discussed, and I have been on both sides of it every time I have heard a speech, and I never got truly straightened out until yesterday. The gentleman from Barbour (Mr. Dent) and the distinguished gentleman from Montgomery, I mean the senior governor in age, the junior governor in priority (Mr. Oates' got me mixed up on the question, but the distinguished gentleman from Madison (Mr. Walker) straightened me out, and I thought I was pretty straight and content, but, after hearing the argument of my friend and colleague (Mr. White) whose patriotism is at par with any man to be found in this country, whose ability as a lawyer stands among the best, and a Democrat without alloy, I got very crooked again, and when the distinguished gentleman from Montgomery, I mean the gentleman junior in age, but senior in priority as governor (Mr. Jones) discussed this question I became very crooked, and when he laid down the proposition contained in that "Chinese queue" I just gave it up. (Laughter.) However, I was told by a lawyer friend of mine, very sincerely and with much fervor, that that case had no reference to the Fifteenth Amendment at all, and that it applied to the Fourteenth Amendment, and then I got all right or nearly so, but there was still one point as to the unconstitutionality of this plan that had not been answered, and that was that any regulation that made it impossible for any class of our citizens to attain the requirements of the law, made it unconstitutional.

Now, it is impossible for negroes to participate either as grandfathers or descendants of those who fought in the revolutionary war. They did, to a certain extent, of course, in the other war. But when the distinguished gentleman from Calhoun, the president of this convention, in answering that argument yesterday made the quite modest remark that women were disqualified, and it was constitutional, and that inasmuch as none of them could ever get to be a man, I agreed with him as a physiologist, that that proposition was true and therefore I believe the report of the majority of this committee is constitutional.

And yet, Mr. President, I propose to discuss this question from a constitutional standpoint. Now, don't get scared. I have no reference to the unwritten constitution of England or to the written Constitution of the United States or of the State of Alabama. I have reference to a constitution that existed before there was history even. I have reference to a

constitution that existed before there was a written constitution or a recorded fact in the history of man. I refer to the constitution of nature itself, and it is from the standpoint of natural law and a few of the facts of history that I propose to discuss this report of the Committee on Suffrage and Elections.

Mr. President, it not only provides a suffrage plan that fits the case, but in my honest, candid judgment, it has provided a suffrage plan that is in accordance with the eternal law of nature and with the facts of history. Now, our opinion on the suffrage question and on the regulation of suffrage by law necessarily depends upon the point of view that we look at it from. I believe that there are four component parts or factors in the regulation of any suffrage. The first is honesty; the second is patriotism; the third, intelligence, and the fourth proprety interests. An electorate made up of electors each of whom is honest, patriotic, intelligent, and has an interest in the affairs of government certainly would be an ideal electorate. Such an electorate is impossible here or elsewhere, and it is particularly impossible, Mr. President, with the limitations of the Democratic platform upon the one hand and with the limitations of the Fifteenth Amendment on the other hand. Therefore, if we cannot get all the ingredients of the pudding, let us get as many as we can, and I believe that this committee in its temporary and in its permanent plan has done so to a very large extent.

Mr. President, there are only two classes of forces in this world. One is the inherited forces and the other is the acquired forces. The inherited forces are the laws of the Almighty, or, from the standpoint of science, are the laws of nature. The acquired forces are the forces that are developed by the efforts and energies of man. The inherent force, or the force which inheres in water that attempts to seek its level is a natural force. Its application in overcoming resistance is an acquired property, given to it by the ingenuity of man. Now, Mr. President, we find that there is a difference in the inherited and the acquired forces of mankind. There is a racial difference, there is a national difference, there is an individual difference. When we come to speak of the inherited force of mankind, it is a fact that cannot be denied

78 that the African races possess in the highest degree the inherited forces of nature, and it cannot be denied, but is proved both from the sciences of Demography and maintained by all ethnologists that the white man is endowed in the highest degree and that the African the least of the inherited forces of potentiality, and, when we come to compare the acquisitions of the different races, all we have to do is to compare the development in government, in natural resources, in the acquisition of property in intelligence, in

science, and in the arts and in letters, and in every other department of life, we find that the Arian race leads, and when we come to speak of nationalists it is no disparagement to the Latin and other great subdivisions of this race, to say that the Anglo-Saxon leads the world, and I believe it is no flattery to say that the home of the greatest natural inheritance that has ever been given, and certainly the greatest acquisition is within the United States of America. I believe the American citizen possess more inherent power and is capable of greater acquisition than any other citizen in the world.

Now, Mr. President, let us look at the history of our country for a little while and apply some of these inherent forces, some of these intrinsic powers that belong to the two races in this country. Let us take for instance America. It was discovered by the white man; it was subjugated and settled by the white man; its independence was declared and maintained by the white man; its government was established by the white man; its civilizations, instittuions and achievements are all under the leadership, and the result of the inherent and acquired powers of the white man. Nobody questions these facts. They are simply the plain facts of history.

Now, let us take the negro. He was brought to this country against his will; he came here not as an emigrant; he came not as a pioneer to subdue and to settle; he came not to establish in this richly endowed country a great government of republican form, but he came as a slave, and from 1617 to 1807 one of the institutions of this country was stealing negroes in Africa and bringing them to this country. Let me pause here long enough to say that it was not a southern institution; it was not a New England institution, but that it was an institution of the colonists of this country, and that, therefore, New England as well as the South is responsible for the introduction of slavery and for its maintenance in this country for years. He left behind a country that was dark, and it is dark today. Darkest Africa that is unillumined by the sunlight of Caucasian enterprise is as dark today as it was at the time of the Christian era and will be as dark four thousand years from now as it was four thousand years ago if unimproved by Caucasian intelligence and enterprise. Now, the negro is not to blame for being brought here as a slave. He is not to blame because he does not possess the inherent potentiality of the Caucasian race. He is not to blame if he has failed to develop and acquire as his white brother has done. I would attach the blame nowhere, but I would say that it is due to the fact that he is intrinsically and essentially and naturally inferior to the white race, and will always be. He was brought here as a slave and in that way he became an institution in this country, and he was a slave from necessity. If he had come here

as an emigrant voluntarily, possessing no other power than that which nature has given him, he would have fallen before the enterprise and energy and combativeness of the white man; therefore, I say that his very existence in this country at that time depended upon the institution of slavery. He was not a citizen, he was not a voter, but he was property. Mr. President, this institution of slavery as it existed at that time was an institution of this country. We all know, who are familiar at all with the facts of history, that it was aided and abetted by the reigning monarch of Great Britain; that it had the support of the then civilization of the world; that only here and there a little leaven was beginning to work, which finally resulted in the stupendous, super-organic revolution that resulted in the emancipation. This emancipation, Mr. President, was by a revolution, which revolution was the work of the white race. Left to himself, his own aspirations and energies, he would be a slave today, and would remain a slave forever. If the white man was responsible then for bringing him away from Africa, and if the white man is responsible for slavery, I say that the white man is also responsible for his emancipation, that this emancipation was an incident only of the revolution. It could not be done by peaceable means, because slavery was an institution recognized and authorized by the Constitution of the United States. It was an institution in accordance with the statutes enacted by Congress. It was an institution substantiated and authorized and maintained by the Supreme Court of the United States, and let it be known and let it be taught to our children that the war so far as the South was concerned, was fought for the purpose of maintaining its constitutional and inalienable right of State sovereignty, including the right of secession, and let it be taught that the waging of the war by the Union forces was not for the purpose of freeing the negro, but for the purpose of maintaining in its integrity the Union of the States of this great country. It therefore followed that the emanicipation of the negro, though the result of the action of the white man, and as a part of a great revolution, was simply an incident and not a purpose. It is unnecessary to review here the literature of that period to prove that proposition. I need cite only one fact to demonstrate it, and that was when the celebrated emancipation proclamation was made by Mr. Lincoln, it only embraced the States that he declared were in rebellion against the government. He did not emancipate, by his proclamation, the negroes in Kentucky, Maryland and Missouri. If emancipation was his purpose, and if the freedom of the negro was the object of the war, then, in the name of common sense wasn't slavery in the States that had not seceded as objectionable as in those that

had? Therefore, I think we can teach in history that the emancipation of the slave was an incident and not the purpose of the revolution that existed in this country at that time.

And yet, Mr. President, I dare say that, if left to a secret ballot of this convention—I am saying these words deliberately—that if left to a secret or open ballot of this convention, and if the Thirteenth Amendment of the Constitution of the United States were repealed, that out of the 115 delegates upon this floor, there would not be a solitary, single vote to re-establish slavery in this country. That question will not come up to vote on, but I tell you frankly, I would vote against it. Now, Mr. President, why is that so? It is because that notwithstanding the fact that we had upon our side the law, the constitution, the acts of Congress, and the decisions of the court; notwithstanding the fact that slavery was as much the institution of the United States as any other institution that ever existed before or since; notwithstanding the fact that emancipation was an incident of the war, and was not its purpose; notwithstanding all these facts, I say to you that slavery is contrary to the law of nature, and has no place in that supreme intelligence that rules the world. Therefore, from the very beginning, slavery was doomed because it runs counter to these supreme laws of nature that rule the universe, in spite of laws, in spite of the constitution, and in spite of court decisions. Why, Mr. President, that little unicellular Oameba, in his limited sphere and environment, to the extent of his inherent capacity, is as much a sovereign as the majestic king of beasts possesses in the jungles of his native land. Hence it is, I say, that the institution of slavery was destroyed because of the fact that the civilization of the ages in that process of superorganic evolution which rules the economics of the world in accordance with natural law, had doomed it, and there was nothing that we could have done then, or could do today, that could set it back, and that very same principle, the very same natural law, will, in spite of the Fifteenth Amendment, in spite of prejudice, in spite of bias, in spite of hatred, in spite of prisons, in spite of bayonets, in spite of obstruction, will make the white man rule this country. And yet, Mr. President, the negro has undergone a wonderful change, and he has been converted from a savage into a fairly civilized people; from heathenism to Christianity; from slavery to freedom; from property to a voter. All of these through the influences and the work of the white man. What he is today, the difference between the negro in his native home and in this country, has all been wrought by his environment, and the association with the white man. None of it is due to his intrinsic potentiality. It is wholly due to his environment. What he is as a potential factor is wholly acquired. In all these things the white race

has been his benefactor. Now, Mr. President, I presume, if we were to take a theological view of this subject, we would say that the institution of slavery was ordained by the Almighty; that it was predestined part of the Divine system of economics which was to solve the world problem. Discussing it from the standpoint of evolution, it is simply in keeping with this natural law that rules and governs, that the white man was enterprising, he was aggressive and ambitious. He desired the negro to till his soil, to become the shade in the summer and the fire in the winter and hence it was that he stole him from his native land. The firt ship that was ever made for that purpose was made at Marblehead, Mass., in 1630. It was the ingenuity of the white man; it was his enterprise, his ambition, his great desire for wealth; it was the spirit of conquest, of adventure and of achievement. Now that is the natural way to look at it. Consequently he brought these people whose intrinsic resistance was so weak that they could not defend themselves, whose acquired ability was so small that they had no art of defense, and hence had to come and submit for 250 years to slavery. Now that is the natural way to look at it. Then the same laws apply to his freedom. The negro as we find him in America owes every particle of civilization to contact with, to association with and to environments of the white race. Now, Mr. President, the great mistake was his sudden emancipation. I mean his enfranchisement. First his emancipation, that was a great mistake. We can look back now and see, and I doubt not that if our fathers, who were responsible for the management of that great and glorious cause, could have seen into the future, that there would have been a different result of the Hampton Roads Conference, but there was not and this emancipation came suddenly. According to late writers, it is said, it was because President Lincoln promised that he would emancipate the negroes if the Union armies were successful at Gettysburg, but the great mistake was his sudden emancipation. But that was not the greatest mistake. The greatest mistake was his enfranchisement. First, because it was unnatural and contrary to organic laws of the universe and to the history of mankind. The Fifteenth Amendment is a technical inhibition, it is put up as a little small, thin wood wall to set up and defy the law of the whole history of mankind, and when I swore to observe it I observed it as a technical obstruction to nature and natural laws. It was conceived in hate and executed in malice and maintained by force. That is the only way you can account for it. No man if he is familiar with natural science or with the history of his country, that did not hate somebody, that was not biased, would ever commit such a crime as that. It was in keeping with the spirit of the age at that time. Vengeance

was in the air. The evil genius of mankind at the throttle. He had dethroned judgment and punctured the great sympathetic human heart, and had set in operation these engines of destruction, and that was the condition, Mr. President, that we had to deal with, a few years after the war. And have we dealt with it? I think we have. It is true we had to deal with many embarrassing situations; it is true we had to deal with Federal bayonets; it is true we had to deal with Federal marshals; it is true before us were prisons, it is true before us was the gibbet or the gallows, it is true before us was the annihilation of our property and perhaps death. But the intrinsic potentiality that inheres in the white man was equal to the occasion to fight it off and for twenty-five years he has remained supreme and in control of the county, State and municipality. How did he do it? Potentiality that is supreme will always find a method to overcome the potentiality that is weak and insignificant. The very fact that three white men in a beat can control the politics of 600 negroes is an illustration along that line. Do you suppose that three negroes could control the politics of 600 white men. Not at all and we are here today, Mr. President, to make a supreme and final effort to throw off these forces. We are here today to avail as nearly as we can, this technical inhibition that is written in the Fifteenth Amendment, that we may set in operation this natural force that has controlled the world and will continue to control the world by fair, just and honest methods. Now, let me say here, as I have said before. I have said it upon the stump and I have said it elsewhere, that necessity knows no law. And where it is necessary to commit these little irregularities for the purpose of maintaining the civilization in this State and the counties in it, I believe it to be right. But the purpose is to maintain the right by legal methods, technically legal if you please, but being measured by the laws of nature and by God himself the methods already in use are right. That is the purpose for which we are here. Now I believe, Mr. President, that the report of the majority of the committee has solved the problem. I have heard so much talk about the granddaddy and the grandmammy that I have been almost ashamed for the old people, and to be a legitimate descendant, why that was disgraceful compared to an unlawful spontaneity. There has been some talk about this grandfather clause and about descendants. A great deal. I am going to read you—this is the criminal code—
79 but I am not going to say anything about crime on this occasion, except the great crime of the Fifteenth Amendment of which I have already spoken, but in this book I find the constitution of 1787, and now I want to read you a very ancient document: "We, the people of the United

States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty for ourselves and our posterity, do ordain and establish this constitution for the United States of America." The two words to which I desire to call your attention are "ourselves" and "our" posterity. It was honorable to be a granddaddy in those days, and it was something to be proud of to be the posterity of one of those granddaddys. When you go on to the Constitution of Alabama of 1819 you will find practically the same preamble "ourselves" and "our" posterity. You come on down to the Constitution of 1861 at a time that tried men's souls, Mr. President, at a time when the very civilization and institutions of these southern States and their very existence were at stake, even then they did not fail to recollect "our posterity"—ourselves and our posterity. Then again in 1865, when our people met here to make a constitution, that constitution said "ourselves" and "our" posterity. The constitution of 1868 that was made, as I understand it, by the scallawags, even that contained "ourselves" and "our posterity." The constitution of 1875 contained "ourselves" and "our" posterity. And even the preamble of the constitution that we now propose in this declaration of rights did not forget to put in the words "ourselves" and "our" posterity. I say that this grandfather clause is not only in keeping with the laws of nature, but is in keeping with the fundamental principles of patriotism because it recognizes the men that fought the battles. (Applause.) Point to me a single civilization that was ever established except in bloodshed, and I will scorn the grandfather clause. Now, I cannot get in on that proposition unless you go back to the revolution and then I come in, and it will be the proudest moment of my life to stand up before that Registration Board and say in answer to the question, "Are you the descendant of a soldier? So far as the late war is concerned I would have to say my father was too old to go in, and I was too young, thank the Lord, but my great granddaddies struck it for their country, and that blood is still here and he struck it for me. Did you ever hear of soldiers going to war to fight merely for themselves? Was that the purpose to which these veterans went to the war and fought so gallantly for four years—for themselves? It was for their posterity. Therefore, I say Mr. President, it is an honor and a distinction to be a descendant from any brave man who ever struck a lick for his country, and because of this I say that he should be permitted to vote without money, without price and without education, and I say that negro Bill over in Barbour County alluded to by Governor Oates ought to vote, because it was

heroic of him, and he merited that, that is if he has not lost his patriotism since. Let me read you in this connection a little clipping from The Brooklyn Eagle, you will find it in The Daily Register of July 26th:

ACCORDING TO HUMAN NATURE.

Brooklyn Eagle.

Human nature is a higher constitution than a Federal compact. White control is a better preservation of government and civilization than constitutional amendments which threaten to ignore or cross it.

(That fellow is a genius that wrote that.)

"The nation, under a mixture of sentiment and of political gambling, snarled itself up in the Fifteenth and Fourteenth Amendments. But the States that were seriously involved in that snarl have extricated themselves from it and the other States, practically unaffected by the consequences of the snarl, are glad that their Southern sisters have made their escape from the complication."

You see they are getting a little more heart up in that country. They are getting judgment back upon its throne, and they are beginning to look at the situation with their natural eyes and from a natural standpoint, and from the standpoint of philosophy and human nature.

"The next generation may or may not reconcile the technicalities of the case with the actualities of it. This generation is satisfied with the actualities of it, and is willing to take its stand by the side of human nature, of history, and of rightful race instinct, leaving to the future the removal by whatever surgery may be devised, of a moribund vermiform appendix affecting suffrage and representation, which remains inoperatively attached to the 'Constitution,' not of the body politic, but of the political fabric called the Union."

Now, sir, we are here for the purpose of performing apendectomy, that is the technical name for removing a defunct veriform appendix, and the distinguished lawyer, the chairman of the committee, is the presiding surgeon and the distinguished gentleman from Madison gave the anesthetic when he made the unanswerable argument as to its constitutionality. Now shall we remove the appendix or shall we give a dose of salts and trust to nature? That is the question. Shall we continue because of little personal bias and prejudice, because of a little pique, because of a little disappointment, or because our own particular kid has not been named and christened, or shall we all pull in the interest of our great State, and in the presence of the Almighty and assist in the

operation? I say let us do it, and let the grand daddies and descendants and the good character fellows do the work. Now, Mr. President, what is the duty of this convention and of the people of the South towards the negro. Mr. President, I would prefer to consider that question in accordance with the rules and teachings of the dispensation under which we live. That dispensation that had its promise when God decreed that the "seed of the woman should bruise the serpent's head," that began when the "Virgin Mary conceived of the Holy Ghost," that was announced when the angels appeared in the air and sang "Peace on earth, good will towards men;" that was acknowledged when the dove descended upon His head by the River Jordan and said, "this is my beloved Son in whom I am well pleased;" that was enunciated in the Sermon on the Mount; in that religion that was baptised in the tears of Golgotha and stained with the crimson blood of Calvary.

I would approach it in this light and not in accordance with natural laws. I would approach it as benefactors and as philanthropists than otherwise. The Thirteenth Amendment is good because it is in keeping with the laws of nature. The Fourteenth Amendment is good, because it is in keeping with the laws of nature and right. The Fifteenth Amendment is dead because it counteracts the laws of nature and runs against the facts of history and is bad. But, Mr. President, in this era of civilization, in this era of benevolence and of charity and forbearance and forgiveness we owe that race something and we should do all we could for it. The report of the committee recognizes this principle, and every one of them who in this enlightened civilization and under this dispensation, in contact with the white man, has acquired good character and intelligence to understand a republican form of government, can come in, and I believe it will be the duty of registrars to admit such, and under the permanent plan, if they have by their energy and their thrift and their industry acquired $300 worth of property, or if they have acquired sufficient intelligence to read the constitution of this State and pay voluntarily a patriotic contribution to the State, your committee says they can come in, and that is in keeping with the broad philanthropy of the civilization in which we live. Let us educate his children, let us give him an opportunity. Let not the strong hand of the superior race crush him to earth in obedience to the law of the survival of the fittest, but in obedience to Him who said "Forgive them for they know not what they do." Let us lift them up, and in doing that we not only vindicate our action in this convention, but we lay a predicate upon which future generations can act, and we will so entrench ourselves in the

civilization of the age that no Supreme Court can find hatred and prejudice enough to set at naught the methods we have adopted for our salvation.

Mr. President, the negro inherits this right. I do not know how you feel about it, but when that old statesman over there, the chairman of this committee, (Mr. Coleman of Greene) the other day was giving from his own observation a description of the personal conduct of the negroes during the war, it actually brought tears to my eyes. A great race, whose freedom would probably result from the success of the Union armies, actually remaining at home and supplying the sinews of war to keep them in slavery, and taking care of the wives and daughters of the soldiers who were fighting to keep them in a condition of slavery. Mr. President, that shows their nature. Suppose it had been a Caucasian race in slavery, and their masters were divided, in less than forty-eight hours we would have united with the side that was fighting to give us our freedom, and you know it. This Christian civilization and this convention should recognize, Mr. President, that loyalty of the old slave, and should say to his posterity that if you are honest, if you are patriotic, if you are intelligent, if you will acquire property, we will allow you to come in and by your vote share in the administration of the affairs of your country. Therefore, when you consider the permanent plan of the committee, it is not only in keeping with the temporary plan, with natural law, and with history, but it is in keeping with the Christian civilization in which we live. The fact of the business is, that it is one of the finest documents ever written by the hand of man, and proclaimed in a parliamentary body.

Well now, what about the registration plan? As I understand it, here is the top seive, that catches all the "grand-daddies," and then here is a basement plan that catches the rest. Now under the Democratic platform, we have got to have it, you understand, because there are a few of these people that are going to slip through the meshes of both the upper and middle seive, and we have said that we will not disfranchise any white man in the State of Alabama, and we won't. Therefore we must have a committee, or somebody to come along and then I do not know what rule they will adopt. If I were one of the Registrars, this would be my test: First. "Have you ever been convicted of any crime?" "No." I could then see the balance for myself, without asking another question, and would issue a certificate right there, and I think that is the purpose, though nobody has said so.

Mr. President, there has arisen in this connection certain questions or propositions which I am sorry have come up. It has been alluded to on this floor, and it has been charged in

certain newspapers of the State, and it has been rumored in sundry ways, that there was something more in this registration clause. That there was a "nigger in the wood pile" and that the purpose was to transfer that nigger in the wood pile to the permanent class where he could vote, not by one, but by the dozens and hundreds, and be held in reserve for emergencies. Now, Mr. President, is that logical? What would you think of a man, I ask you, that had resting upon his breast a great weight, or a great burden, and were to cry out for relief, and have it removed with the assistance of his brethren, and after it is removed for him to go back deliberately and pull the weight on himself again?

Mr. ROGERS (Sumter)—And to secretly put it back?

Mr. CUNNINGHAM: Yes, secretly put it on, clandestinely and thievishly. Mr. President, it is so illogical that no sensible man could do it. But that is not my answer to those insinuations and statements. I am a physician, and I try usually to find out what is the matter with a patient and to make a correct diagnosis of the case. I have heard it insinuated as to what would be done in certain sections of the State, and in that section which is known as the "Black Belt." I look into the faces of the "Black Belt" citizens here, and they are as good looking as I am; they have the complexion and the outline and the contour, face and countenance of my sort of folks, and I believe they are my sort of folks, and therefore I do not believe they are going to do it. That is what I believe. Who are these gentlemen of Black Belt, and who are we of the White Belt? We are of one race and country. We are one blood, whether we trace it back to the Puritan, to the Cavalier, or to the Huguenot, we are all American and are therefore of American blood. The forefathers of the people of the "Black Belt" and our forefathers wrought alike, side by side in the quarries from which were taken the stones that were erected into the magnificent temple of liberty for this great American Republic. Side by side they stood to maintain it against the world, to develope its resources, and to maintain its institutions. In 1861 when the household of the temple divided, the forefathers of the hill counties, and of the black belt, were still side by side; they went shoulder to shoulder, and from Fort Sumter to Appomattax, there was no question as to where a patriot came from, whether from Dallas, from Jefferson or from Randolph.

For a common cause they united and they fought in the hand of the magnanimous Grant struck to pieces and there fell to earth the proud and stainless rapier at the feet of the matchless Lee, they were still side by side (applause), and when the Southern wing of that temple fell, they were buried

together beneath its rubbish, and from it they arose, and like the Israelites of old, they set their faces towards the new Jerusalem of a reconstructed South, and together, thank God, they have made it and will forever maintain it. (Loud applause.) Was there any talk as to where a man came from in 1874? It is fitting to note the facts of history, and it serves to illustrate the occasion, that it was under the leadership of the "bald eagle of the mountains," the immortal Houston, and the matchless Morgan from the Black Belt, that this State was redeemed, and I say to you that today this great question is not a question of the "Black Belt," it is not a question for the hill counties, it is a question for white men to solve, who want honest methods in their elections. (Applause.) I am as much interested in it from the great industrial county of Jefferson as I would be if I lived in the county of Lowndes.

But they say there is too much representation. Our northern brethren say we will cut down your representation if you disfranchise a certain percentage of your male population, and we think that it is wrong, and we are going to try to keep you from it. We come down to Alabama and the boys in the hill counties say we do not think you in the Black Belt should have five times the voting strength as the white men in the hill counties, and therefore they object to it. You go to the Black Belt counties, and you find that citizens in a beat where there are five or six hundred negroes and a half a dozen white men do not want to lose their political power in their county politics because you disfranchise these negroes. So you see this is an issue among yourselves. There are others who say we will not ratify this constitution because you put this and that into it, that goes into our back yard and takes a portion of my pie. It is said that some of the sheriffs will fight it because they can be removed temporarily by the governor for neglect or cowardice or connivance in lynching or bodily harm to a prisoner. I was told myself by a tax assessor that this poll tax which is to be a voluntary patriotic contribution, that unless we provided means for enforcing its collection would take seventy-five thousand dollars out of the pockets of the tax collectors of the State. Gentlmen of the convention, let us rise above all these things, let us rise above Black Belt and hill counties, let us rise above every personal interest and every selfish motive, and in the name of God, natural law and humanity, justice to ourselves and our posterity, stand together, pull together, work together and run together. (Applause.)

Mr. President, we are going to do it. And, sir, I think I see a new light. At present it is dim, but I believe it to be a rising sun. It is obscured by the clouds and mists, but in the rifts I

gather a gleam that is an omen of the brightness and blory and splendor beyond. If this sun continues to rise, to its meridian of glory, it will dispel the clouds and mists and will reveal to the civilized world a reunited, prosperous, glorious and happy people. The mailed hand of the tyrant, clad in the armor of the militant, will no longer be seen to hold by the throat a great, generous, brave, chivalrous and courageous but overpowered people. Instead of hate and prejudice, there will be love and fairness. Instead of oppression and usurpation, there will be recognition and consideration. Instead of the carpet-bagger and his grip, there will be the capitalist and the laborer. Instead of the politician and his ambition, there will be the statesman and patriot. Instead of racial hatred and prejudices, there will be Christian philanthropy and charity. Instead of discouragement and despair, there will be hope and endless fruition, and may God speed the day. (Prolonged applause.)

Mr. MARTIN: Mr. President and gentlemen of the convention, I know you are weary and that this is an unusual hour to rise for the purpose of addressing a convention after you have been in session as long as you have today, but I ask the indulgence of this convention for a few moments at least. It would be impossible for us to over-estimate the grave importance of the questions that are before you for consideration and determination, their far-reaching consequences cannot be over-estimated by you. Every citizen of the State of Alabama is interested in them and our decision must tell for weal or for woe upon those who are to come after us. Gentlemen of the convention, as grave as those questions are, as momentous and delicate as they are, I believe, and I thank God for the faith that is in me, that the delegates here assembled will prove equal to the occasion and from the wisdom and patriotism of this convention there will spring a constitution that will be to the people of the State of Alabama a pillar of cloud by day and fire by night to lead them out of the darkness and the undesirable condition of affairs that surrounds them, a condition that was forced upon this people by the unwise, unstatesmanlike and vicious legislation of the past. But, gentlemen, I care not how wise you may be, I care not how patriotic you may be, there is one thing you cannot do. You can shape and frame the fundamental law of the State, but it will take that great power that sent us here—the people themselves—to breathe life and vitality into it. Therefore, it is the earnest wish of my heart that we may so conduct ourselves as to be able to take the constitution that we propose in one hand and our conscience in the other and go back to our constituents and say to them, here is the result of our labor, we have done the very best we could under the circumstances, read it

in the light of the authority you gave us, and you will find that we fought a good fight and kept the faith.

Now, Mr. President, somewhere I have read that the chief purpose of convening this convention was to take such steps within the limits of the Federal Constitution as would continue the control of the white man in the affairs of the State of Alabama, believing as we do that it was to the best interests of the Black Belt and to the best interests of the white man and of the entire country that it should be so. It has been decreed, it has been fixed, and beyond all controversy, that the white man is going to control the affairs of the State of Alabama. Now, the great question for you and me to decide is this, shall he control it by law and order, or shall he control it by force and fraud? I say let him control it by law and order. Somewhere I have heard it said that this convention was to disfranchise no white man. It has been the declared purpose ever since the constitutional convention was first agitated, as the purpose of the Democratic party in the convention of 1898, it was proclaimed, and in the convention of 1900, it was reiterated. I was not a member of the convention of 1900, neither was I present, but there was a scene enacted upon this floor that will not be soon forgotten. A man who is as well known to the people of the State of Alabama as any other man in it, a man who has the confidence of the people of Alabama as much so as any other citizen of the commonwealth, a man who carries by his side an empty sleeve, itself being a passport to every patriotic heart, Judge Carmichael, rose and stood upon a table, so that he might be seen and heard of all men, and there proclaimed that no white man in the State of Alabama was to be disfranchised. Those words rang out like a clarion note all over the room. They were echoed and re-echoed from hill-top to hill-top and from valley to valley. Your convention adopted that resolution as a part and parcel of its platform, and the great Democratic party published it to the world that no white man in the State of Alabama was to be disfranchised. Then when your convention met to nominate delegates to this constitutional convention, after having nominated your candidates, you gave them instructions in the nature of a platform of principle, and among other things you said, we pledge our faith to the people of the State of Alabama that no white man is to be disfranchised. We, then, as candidates went before the people. Your Democratic State Executive Committee adopted it and declared it to be a truth. Your Campaign Committee pledged the Democratic party to the people of the State of Alabama and directed you and me to go before our people and say to them that we pledged ourselves and pledged the honor of the party that that platform should be strictly carried out. We

did it, and the people believed it, they voted for this constitutional convention, and they honored us with their confidence and sent us here. Mr. President, a state of circumstances might arise to cause me to take my commission and carry it back to those who gave it to me and say to them that I could no longer conscientiously serve them, but never, no, never, so help me God, will I deliberately violate the pledge I made my people. We were elected on that platform, can we carry it out? It has pleased some learned gentlemen to say that it cannot be done, that we cannot steer clear of the Federal Constitution, and at the same time carry out the platform, for I verily believe that has already been accomplished. I believe that if we adopt this report, we can keep our pledge and at the same time not violate any provision of the Federal Constitution.

Now, gentlemen, what does this report say? It says that those who have honorably served in the land or naval forces of the United States or of the Confederates States shall be allowed the privilege of voting. What is the right of franchise? It is nothing more than a trust. He who holds it is a trustee. He who holds it, holds it for the good of his country as a trustee. What class of men, therefore, do you want to confer it upon? Those who have proved themselves worthy. Those who have proved themselves of the right character. That is the class that you want to act in the capacity of trustees in this important matter. Now a great many negroes will be allowed to vote under this clause, and a great many white men will be allowed to vote under the same provision. The old Confederate soldier will predominate, no doubt. Now, gentlemen, we are not afraid to trust those men. They have been tried in the fiery furnace and came forth pure gold. They were tried in the days that put men's souls to the test. Are you afraid to risk the affairs of the State of Alabama in their keeping? Why, I repeat, that in the dark days that put men's souls to the test, these men upheld the honor of your State and bore a name untarnished all through the trying period of the war. Then, when the war was over they came back home. They found a worse state of affairs than was ever before presented to their vision. They found their property was gone, their families impoverished, their country in ruins, and tyranny stalked unbridled through this land and free men breathed with bated breath. In that day, the rattle of the saber and glitter of the bayonet was heard and seen in this building. Those patriots, though, could not be deterred by threats, they could not be seduced by flattery, but they said to the tyrant and to the seducer, "Get thee behind me, Satan." True, all is gone save honor, but that we propose to preserve and transmit as a sacred heritage to our children, and that they did.

Now, there is another class, that the lawful descendants of these men may vote. Gentlemen, when the war broke out we were a poor people, an agricultural people, and the rank and file of the Confederate army was made up of poor men. They owned no property. They never owned a negro in their lives, but they fought for principle and for conscience sake. Now, when those men were called to arms from their homes, they left the plow standing in an unfinished furrow upon the hillside farm. He left there a wife and a group of little children, the oldest, perhaps, not more than 10 or 12 years of age. The father gone, that boy, under the guiding hand of a loving mother, stepped between those plow handles and year's end to year's end worked and labored in order to supply his mother and little sisters and brothers with the necessities of life. Did he go to school? No, he never went to school, for he had no time to go to school. He stood in front of that cabin door, and with all the strength and energy of his young life, drove back the wolf of want and hunger from the sacred confines of that home. Then, when the war was over, his father came back, perhaps on one leg or with an empty sleeve by his side, broken in health and wounded in body, a hero without success, a disabled soldier without a pension. His country could not help him and therefore that boy continued to labor between those plow handles not only to support that mother but to enable that decrepit and broken-down Confederate soldier to live, literally growing from childhood to manhood between those plow handles. Now, I put his case to you, delegates of this convention. I tell you, in the first place, he made those sacrifices for his country, and I put the question to you, before God and man, will Alabama today, like a cruel and unnatural mother, lay the heavy hand of oppression upon him. Almighty God forbid it. Gentlemen, I tell you, you may do it if you want to, but beware that you do not sound the death knell of your constitution when you do it.

Now, I will not detain you much longer, gentlemen, but there is another thing, and I want it distinctly understood that I do not share in those apprehensions as to the sincerity and good faith of the Black Belt of this State, the land of fair women and brave men. I want to say right here that I believe that God never made whiter men than these Black Belt Democrats. They have suffered long, they have suffered much, but they have proven true in sunshine and in storm and when they saw the day of deliverance coming, they turned to the hill counties and raised a Macedonian cry, "Come and help us." I stand here today and tell you, hold forth, we are coming.

Gentlemen, I do not speak to Democrats, I do not speak to Populists or Republicans, but I appeal to patriots everywhere, strike hands, let's make one grand and determined effort to get

back to original principles and preserve in its purity this sacred inheritance transmitted to us by our fathers. Preserve in purity the ancient institutions of this country. Mr. President, when I throw my eye to the left and see the honored chairman of this distinguished committee, a man well stricken in years and feeble in health, quitting the quiet of his own home, and coming to this capital city, and day after day, and week after week, in the hot summer time, laboring for the good of his people, I feel like bowing my head before him, and, in the name of a grateful people, return most sincere thanks. I believe, sir, that long after we shall have been called home to our fathers, the good work that you have done will be a blessing to the people and when it blesses the people your people will bless you.

Official Report of the Proceedings of the Constitutional Convention of Alabama.

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Fifty-seventh Day.

MONTGOMERY, ALA., MONDAY, *July* 29, 1901.

The convention met pursuant to adjournment, was called to order by the President, and opened with prayer.

The PRESIDENT pro tem: The next thing in order is the regular order—the consideration of Section 4 of the report of the Committee on Franchise and Election.

Mr. PORTER: Mr. President.

The PRESIDENT pro tem: The chair recognizes the delegate from Coosa, Mr. Porter.

Mr. PORTER: Mr. President, it is with some reluctance that I rise from my seat to addrsess this convention after listening to the many able arguments delivered on the floor of this hall upon the subject now before us. I am satisfied at this late hour that anything I should say in my feeble way would be like pouring water upon a duck's back. I was taught in early life that small people were to be seen and not heard. I am still trying to stand by my early education. This debate as I understand has been prolonged for the purpose of allowing each delegate to be heard. My duty to my people demands that I no longer be silent. I am not in the attitude of the majority of the delegates of this convention, who are under party pledges not to do certain things. I am here as a delegate with a small minority of other delegates, representing 35,000 voters from north and south Alabama, who were opposed to the holding of this convention. I am pledged only by my good conscience to do right, as I see it, and I am satisfied that my people will be satisfied with

my action and that I will receive when I return home their plaudits: "Well done, thou good and faithful servant." Suffrage is the all-absorbing question before us today. In the few remarks I shall make I hope to speak the truth, and nothing but the truth, as I understand it. Why this perplexing question before us today? It is some of the fruits of Democratic partisan folly and secession. In this historical hall and Capitol in 1861 there was a body of men assembled, a majority of whom were led astray by sentiment by leading politicians against the better judgment and supplications of a small majority. The result—war and blood, destitution and ruin, reconstruction, Thirteenth and Fourteenth and Fifteenth Amendments to the constitution. We were left in the attitude of a sick patient. The doctor was sent for, he came and prescribed the Thirteenth Amendment upon his first visit. We refused the medicine. He came on the second visit and offered us the Fourteenth Amendment. We refused. He came with the Fifteenth Amendment a little larger and a little more quinine, and says I will stand by you and see you take it, together with the Thirteenth and Fourteenth Amendments. We have lived and prospered for a quarter of a century after taking that medicine. Here in the early dawn of the twentieth century we are assembled again in constitutional convention for the purpose of seeing if we can devise some plan whereby we can get around the effects of this medicine. We are here offering new inducements. I fear for more reconstruction. Are we so forgetful as to be carried off on sentiment again? Let us bring a halt, and see whither we are drifting? Mr. President, I am a believer in the doctrine that whatever a man soweth that will he reap. If he sows to the wind he will reap the whirlwind. This applies both collectively and individually. We have the proposition under discussion in the way of a minority report versus the majority report, and upon that delegates are divided. It should be a friendly division. It behooves us as delegates to this convention to do our duty, in trying to get the best thing possible for our people, and send it to them for their approval or rejection. We should be consistent, Mr. President, and not hypocritical. When this convention met in May, there was a resolution offered providing for the seating of members by lot—a page was to be blindfolded, the names of all delegates were to be placed in a hat, and a page was to draw therefrom and hand the secretary one by one, as he called it, the name thus drawn, the member whose name was called, was to come in and choose this seat. That resolution was fought on the floor of this house upon the ground that it gave Republicans and Populists the same chance to get good seats that it did the Democrats. The jour-

nal will show that 41 votes were recorded against this resolution in oppositon to allowing their brother delegates the same chance as themselves, simply on the ground that they were Republicans and Populists. The Republican and Populist delegates of this convention, some of them at least, are old Confederate soldiers and sons of Confederate soldiers. It is not necessary for me to go out of this house to prove my record as a Confederate soldier. I see some familiar faces now present listening to me whom I have met in places as hot as the place we meet today, the only difference in those faces is that the plowshare of time has plowed furrows, and the frosts of many winters have whitened their heads. In my breast there beats a heart that goes out with love for everyone of them. For the last three or four days we saw some of those delegates who voted against the resolution that I referred to blistering their hands and skinning their throats applauding speakers who were speaking in favor of giving us preferred seats as old soldiers and sons of soldiers. We don't ask it; we don't want it. Section 2, as passed upon, does great injustice to immigrants coming to Alabama. It disfranchises them for six years before they are allowed to vote. A taxpayer all the time a voter after six years. The Enabling Act calling this convention and the Democratic platform in my judgment, has handicapped this convention in its work. The constitution was partly made before we came here. The Capitol was not to be removed. The tax rate was not to be increased. This basis of representation was not to be changed. No white man was to be disfranchised. All of these are provided in the present constitution, and we did not need a convention for that purpose. That reminds me of a story. Pat was in the lockup. The judge came along and said: What have they got you in there for? Pat related his troubles and the judge said: They cannot put you in there, Pat, and Pat replied, Please, your Honor, they have done done it. The white man is already disfranchised here in Alabama indirectly, I might say almost directly. Mr. President, under the present election laws of Alabama, there are many white men already disfranchised. I know many good men in Alabama who have not voted since our present election laws were enacted. I remember reading last fall, just before the national election, in The Montgomery Advertiser, where fifty-seven men, intelligent men in Dallas County, got a ticket immediately after they were printed, and they were asked to fix it as they wanted to vote it as Democrats, and everyone of them failed. Subdivision two of Section 4, in my judgment, is unconstitutional. To vote for it, I feel would be to violate the oath I took when I became a delegate to this convention. We met here to disfranchise somebody. No white man is to be disfranchised. Then who are you going to

disfranchise? Is there not discretion somewhere? There are, I understand, ninety-six lawyers in this convention. They are all of them constitutional lawyers, I presume, by this time. Mr. President, I am not a lawyer, I am a farmer, but in the language of Mrs. Wyley Jones of North Carolina, after the battle of Cowpens, in conversation with a British officer, Colonel Tarleton, who remarked, "You appear to think very highly of General Washington, and yet I have been told that he is so very ignorant a fellow, that he can hardly write his name." It may be the case, she readily replied, but no man better than yourself can testify that he knows how to make his mark--pointing to his wounded hand, made so by General Washington in that battle. I know how to make my mark. Subdivision 3 of Section 4 of the suffrage report is sufficient, and all soldiers and their sons could and should come under that clause, anything else is humilating. Mr. President, the poll tax, in my judgment, is the only solution that I see to this question. Mark what I say, if any are to be disfranchised, let them disfranchise themselves. I am opposed to the disfranchising of any citizens of Alabama except for crime. I want the catalougue of crimes mentioned in Section 6 amended so as to disfranchise and put in the penitentiary every man who sells his vote and the man who buys it. The bribe giver is as mean as the bribe taker. The man that will do either is unworthy of the ballot. I listened very patiently the other day when the distinguished senior member from Randolph was picturing the conditions in his county, and while I know he told the truth, yet whereever there is a man who proposes to sell his vote, there is somebody that is guilty of buying him, and if negroes sell their votes they should be disfranchised, they are not worthy of it. And it occurs to me, coming from the Fifth Congressional District, the same as does the gentleman from Randolph, that in the last Congressional election in that district there was more money spent in the white primaries among white men than was ever known to have been spent in that district in all the past. What we need are honest men in Alabama, when we get them, we will get honest elections. Sections 5, if enacted into law, as a part of the Constitution of Alamaba, in my judgment, will disfranchise thousands of white men Alabama. Section 6 of Subdivision 3 of Section 4, with a poll tax, is all that is necessary, with a little amendment to Section 6, which I propose to offer when we get to it. Mr. President, we should be more discreet. Closed mouths instead of closed doors is what we need now. The old soldiers are over 45 years old, not subject to poll tax. The old negro always devoted to his old master and mistress is still loyal and grateful. I appeal to the old Confederate soldiers who will be the first man to rise up and strike down this faithful old man

who stood so faithfully by our fathers and mothers, our wives and children, made bread for them and us while we fought the battles of our country. Mr. President, I am an old soldier who surrendered with General Lee at Appomattox Courthouse on the 9th of April, 1865. I have never gotten my consent to do it. I will paint no picture, I will present one already painted, and that picture by the lamented Grady in his famous speech at Boston:

"What of the negro? This of him: I want no better friend than the black boy who was raised by my side and who is now trudging patiently, with downcast eyes and shambling figure, through his lonely way of life. I want not sweeter music than the crooning of my old 'Mammy,' now dead, and gone to rest, as I heard it as she held me in her loving arms, and bending her old black face above me stole the cares from my brain and led me smiling into sleep. I want no truer soul than that which moved the trusty slave, who for four years, while my father fought with the armies that barred his freedom, slept every night at my mother's chamber door, holding her and her children as safe as if her husband stood guard, and ready to lay down his humble life on her threshold. History has no parallel to the faith kept by the negro in the South during the war. Often 500 negroes to a single white man, and yet through those dusky throngs women and children walked in safety, and the unprotected homes rested in peace. On marshalled the black battalion marched patiently to the fields in the morning, to feed armies their idleness would have starved, and gathered anxiously at the big house to 'hear the news from Marster,' though conscious that his victories made their chains enduring. Everywhere humble and kindly; the rough companion of the little ones; the observant friend; the silent sentry in his lowly cabin; the shrewd counsellor; and when the dead came home, a mourner at the open grave. A thousand torches would have disbanded every southern army, but not one was lighted. When the master, going to a war in which slavery was involved, said to his slave, 'I leave my home and loved ones in your charge,' the tenderness between man and master stood disclosed. And when the slave held that charge sacred through storm and temptation, he gave new meaning to faith and loyalty. I rejoice that when freedom came to him, after years of waiting, it was all the sweeter because the black hands from which the shackles fell were stainless of a single crime against the helpless ones confided to his care."

Mr. President and delegates of this convention, there have been many noble and patriotic speeches made in this convention since we have been in session. If some had been eliminated, in my judgment, it would have been better for the people of the State of Alabama. They had better have been de-

livered behind closed doors. I want to repeat what has many times been said on the floor of this convention, that this is a white man's country; it is large enough for the black man also. The white man is ruling, the white man is going to rule it. There is not a negro holding office in Alabama, except it be some Federal position in the Postoffice Department, and if that be a crime, let him who is not guilty
82 cast the first stone. From the best information I can get, but few of them ever vote. White supremacy is as complete in Alabama as it is possible for it to be. The negro is satisfied with this. All he asks as a lawabiding citizen—he works the roads, pays his taxes and fights the battles of his country, if called upon—all he asks is the right to choose between two or more the one he prefers to rule over him. This right, in my judgment, he should have. In the near future some of us will see the folly of our ways and repent that we did not act otherwise. The suffrage as proposed by the majority of the committee. I admit the right of the State to regulate the suffrage as prescribed under the Fourteenth Amendment before the Fifteenth Amendment was adopted, but the Fifteenth Amendment takes away from the State absolutely the right to exclude the negro from suffrage, and I read from James G. Blaine, Twenty Years in Congress to prove what I say as high authority:

"The adoption of the Fifteenth Amendment seriously modified the effect and potency of the second section of the Fourteenth Amendment. Under that section a State could not exclude the negro from the right of suffrage if willing to accept the penalty of the proportional loss of representation in Congress which the exclusion of the colored population from the basis of apportionment would entail. But the Fifteenth Amendment took away absolutely from the State the power to exclude the negro from suffrage, and therefore the second section of the Fourteenth Amendment can refer only to those other disqualifications, never likely to be applied, by which a State might lessen her voting population by basing the right of suffrage on the ownership of real estate, or on the possession of a fixed income, or upon a certain degree of education, or upon nativity or religious creed. It is still in the power of the States to apply any one of these tests or all of them if willing to hazard the penalty prescribed in the Fourteenth Amendment."

This is a complete answer to the various gentlemen on this floor, and is undoubtedly the right construction to be placed upon it. The war of 1865 is over, reconstruction is over. Are we willing to risk the chances of reconstruction again? I hope not. Now, Mr. President, in conclusion I want to say a word in regard to the Black Belt Democrat. What of him? Mr.

President I have been closely associated with some of them in every legislature that has met since 1896. That association has been of such a character that if affords me much pleasure to avail myself of the opportunity to say that they are high-toned, refined, educated, patriotic and as big-souled men as it has ever been my pleasure to meet. I have found them when the question of right against might was involved, to be invariably on the side of right against might—except in politics. Standing up for the weak against the strong. In each and every legislature above referred to, a proposition has been made by some Hill County Democrat, at the instance of some one by three would-be politicians of my county, who are out, and want to get in, and their only chance through the appointing power, to rob us of local self-government. The Black Belt Democrats after hearing the evidence as I produced it on this floor, and I made my case so plain that they on every occasion stood by me and I have been able to defeat any legislation in that direction affecting my county, and we have local self-government in the county of Coosa. I stand here in my place as a representative of the people of that county, and I tip my hat to the Black Belt Democrats.

Mr. BLACKWELL: Mr. President and gentlemen of the convention: I rise to advocate the majority report in regard to that section of the Committee on Suffrage and Elections which is commonly known as the grandfather clause. I know it is a little late, Mr. President—there are a great many others who wanted to say something on that subject, because it was a subject we had discussed before the people, and had said that we intended to try and put into the constitution, and we desired to let the people know how we have carried out the pledges made to them. In addition, we thought that it was the proper thing to say something, believing that things said by local men might be read by the local people, and thereby more people would know the reasons that prompted us. I know the subject has been discussed and rediscussed. Mr. President, were you ever a boy, and did you ever have a whole lot of people at the place you had to eat, and when you had to wait, did you ever go behind the door near the dining room and look through the crack to see how they were getting along, what was prepared on the table and see the luscious pieces of chicken disposed of and the nice hot biscuit, and did not you look longingly until you saw the last piece of chicken gone and the last hot biscuit disappear? Were you ever a boy under those circumstances? Well, that is the condition I am in now. That is the condition a man is in who attempts to discuss this question after all has been said about it. I feel like the old preacher who was invited in after the feast and requested to ask a blessing. He looked up solemnly and said: "Lord, bless the

owl that ate the fowl and left the bones to Seaborn Jones." It is not expected that we will all agree upon this matter. There are three propositions that I lay down that I am willing to live and die by. The first is, Mr. President, we may differ and be honest in our difference; the second, that we may differ and continue to be friends; the third is, that we may differ and yet be Christians. Now, those are broad propositions that I lay down to start with. I do not expect to see us all agree on all of these matters. We come from different quarters to this Capitol today, and we are all attempting to reach the same place; yet as a matter of fact, we came here by different routes and each of us saw different things along the way. We do not take the same route even to go to a place. I knew at the outset of this movement that we were going to meet obstacles all along the way, but obstacles frequently have a capacity of developing a man, showing what there is in him. You never saw a boy fly a kite unless he had the wind against the kite; he has got to have opposition as a matter of fact before the kite rises. Not a great while ago, sir, I visited Niagara; I got there in the night time, and I heard the singing of the water, and in the morning when I went out to see what it was that produced the beautiful music that I had heard, I saw the mighty roaring river coming in contact with the obstacles that nature had placed in its pathway. I saw great boulders that nature had placed in the water, and learned it was the obstacles that the river came in contact with that had made the water sing its sweetest song, and I looked and saw the mighty vapor thrown high into the air, and the rainbow amid the glistening spray. I saw it was the obstacles that produced all these visions that were so beautiful to the eye. When you take a prism and let the rays of the light strike it, those rays are broken up and present to you all the colors of the rainbow. It is the obstructions that bring out all this beauty of color. So, obstructions of themselves are not necessarily hurtful things. I expected to come in contact with these obstructions. Now, I am for this majority report. It seems to me to steer clear of all the breakers and give us just what we promised the people we would give them. Nothing else suggested here could effectually accomplish what we have promised the people, and what we are sworn to do; nothing else will do that work except what we have here in the majority report. I want to steer clear of all breakers and of all snags. It seems to me to put us out in clear sailing; it reminds me of the young man and the pilot, and the young man asked "How long have you been on this river?" and the pilot replied, "Twenty-five years," and the young man said, "You must know every sand-bar and snag that there is in the river." The pilot replied, "No, I do not know where they are, but I know where the deep channel

is." I want to get in the deep channel. This majority report puts us there. I believe we won't strike any breakers in it. There may be some other way of getting through—the way of the minority report is presented, but there seems to me danger of running up on snags and sand-bars, and I prefer to go into the deep channel that is well known. As a matter of fact, some have said that there is nothing in our pledges, that we have a right to violate them. A gentleman stated here the other day that we were the agents of the people, and, as agents of the people, we had been commissioned to do a certain thing; that when we came here we found that was not the best thing in our judgment to do. He said the thing to do was to adopt the most practical thing that presented itself to us, and, after adopting that most practical thing, to re-submit it back to the people that they might have an opportunity of ratifying what the agent had done. Now the principal was consulted before the agent was created, and the principal has declared to the agent that he had made satisfactory investigation. Now, he says go and do what I have commanded you, and the agent comes up and says, "I do not think that is the best thing to do." You know when Lamar was in that position in the Congress of the United States, and did not think he ought to advocate free silver, he resigned that they might send a Representative who was not against their convictions. But these gentlemen says "We submit the work we do back to the principal again for ratification or rejection." But you re-submit what the instructor did not want, and when you submit it and he rejects it, there is no way left open for him to get what he sent you to do for him. After repeated instructions from the principal the agent says that my conviction prevents my doing what my principal wants, I know better than the principal what he wants, although he studied the matter carefully before he sent me here. That is the position of the agent and it seems to me very dangerous ground that the gentleman is getting on here. It is a fact, as Mr. Jefferson has said, that the whole art of governing successfully consists in the art of being honest, and wherever the corrupt and the ignorant are allowed in any considerable number to exercise the right of suffrage, there you plant the germ of degeneracy which the cunning will discover and the wicked will open and cultivate the germ you have planted and make it grow to the danger and to the destruction of the Government.

Mr. DENT: Will you permit me to ask a question.

Mr. BLACKWELL: My time is very limited, but I will permit the gentleman to ask this one question.

Mr. DENT: I understood you to say that the majority report

squarely complied with the platform and the obligations which we are under.

Mr. BLACKWELL: Yes, I think so, and I will answer that.

Mr. DENT: I would like you to show when the platform says "infamous crimes," how you get in "tramps" and the other classes mentioned.

Mr. BLACKWELL: I think, as a matter of fact, that we declare by our action, the crimes we mention to be sufficiently infamous to prevent men who commit them from exercising the right of suffrage. The excellence of every government is its adaptation to the state of those to be governed by it. By this constitution we are construing what we meant when we said infamous crimes. Sometimes we are governed too much and go further than authorized in representing the people. Mr. Jefferson said: "We are vibrating between too much and too little government, frequently." I hope this convention, as a matter of fact, will have the pendulum to rest on the middle ground, at the right place, and it seems to me that the majority report fixes it there. My friend, the other day when talking, made a very wise suggestion in regard to some people quoting Thomas Jefferson, and the way they misconstrued him here as to what he meant by government. He said that it was absolutely political blasphemy to attribute to Mr. Jefferson the things that our Republican friend read here the other day as the doctrine of the immortal Jefferson. As a matter of fact this seems to me to be very largely true. A number of delegates here have said that they want the best government for the people of Alabama. You have tried it with the negroes as a voter. During that era did we have the best government?

You know, sir, when the Republicans took charge of the State of Alabama it owed $5,000,000, and in six years of profligate legislation by that party they increased that debt to $32,000,000, and they increased the offices and pay of officers, and when they found we did not have enough offices to swing around the circle, and give every carpet-bagger one, they created new offices. When the people elected Governor Lindsay, the Republicans who had their contracts that they had not complied with under the carpet-bag rule, refused to give up the office of Governor and Treasurer of the State of Alabama, and you remember, sir, when the Federal bayonet was brought here to protect the men that had been ousted by the vote of the people. The Republican Governor and Treasurer brought bayonets to retain them in office. And we saw at Alabama's capital the glitter of the Federal bayonet to overthrow the will of the people. If we adopt the majority report I think we will have fair elections.

"We will have a weapon firmer set
And surer than the bayonet,
The ballot though it falls as gently as the snow flake on the
frozen sod,
Yet it executes the people's will as lightnings do the will of
God."

You remember when they came and found us weak and prostrate, before the smoke of battle had hardly cleared away, the rattle of musketry and the thunder of the cannon had hardly ceased to reverberate, they laid the strong arm of the law upon us by the agency of this negro ballot, and brought corruption into the State of Alabama and debt, a part of which debt we are still paying. Now, do you believe that it is for the best interests of the State of Alabama that such a condition should be made possible again? I had intended to argue many questions involved in this article, and to present some authorities, but I see that the matter before me is going to be more than I can cover in my time. Jefferson says, "The only ortho-
83 dox object of the institution of government is to secure the greatest degree of happiness possible to those associated under it." To restrict suffrage to the virtuous, the honest and intelligent is simply to prevent men who are incompetent from injuring themselves and their fellow man. As a matter of fact, whenever we leave the suffrage to any very large extent in the hands of incompetent men we fix it so that the hands of the competent are tied and good government is arrested, nature has marked the weak and incompetent to be protected by the government, rather than to be the directors of the government.

Now, in extending the suffrage, Mr. Jefferson has said that you cannot draw the line against the men that do the fighting of the country. He recommended that the men who were the soldiers, and not only the men who were soldiers, but the men who were in the militia in the State of Virginia, should be embraced in their State constitution as electors. The only qualifications necessary with these men were that they had been soldiers, or in the militia.

Now, Mr. President, I want to say that prominent gentlemen have said, in order to make the negro useful here you must keep him contended. I want to know if there can be any contentment by bringing about such a state of affairs as we had here during the time the negro had unlimited suffrage? Another gentleman said we could not invite capital to our land if the majority report of the committee was adopted in Alabama. The majority report means that the intelligence and the virtue of the State of Alabama, those who are interested in good government should control it. In North Caro-

lina and South Carolina, where we have adopted these methods, we have increased in cotton manufacturing industries more than any other two States in the South, and today more cotton is used in the manufacture of goods in North Carolina and South Carolina than there is cotton made in those two States. Now, can you think of such a thing as an intelligent man with money to invest, viewing it from a business standpoint, who would refuse to invest in Alabama because the intelligent people, the virtuous people, and those interested in its prosperity rule in Alabama? Can you conceive of such a thing as that having a tendency to drive these men out? and yet that is the argument offered by this gentleman.

I want to say for myself that I may be to some extent partial to the idea of extending this benefit to the old Confederate soldiers and to his descendants, for, Mr. President, so far as I know, I am the youngest Confederate soldier in the State of Alabama. I enlisted in the Confederate army when I was 14 years of age, and I spent my fifteenth birthday as a prisoner of war in Camp Douglass, Illinois, being just a few months over fifteen years of age when the war closed. I had to undergo the hardships that were entailed upon the men there, and I know something about what those men have had to suffer, and they are entitled to recognition. As an old friend of mine used to say, in regard to our suffering, We slept until after breakfast, skipped dinner and went to bed before supper, and he said on the march, before we got there, that he had known it to be true that the Confederate soldiers ate dried apples for breakfast, drank water for dinner and swelled up for supper. These men had to undergo many hardships and I know how they suffered, and therefore I may be to some extent partial to those old soldiers.

Now, Mr. President, some gentlemen learned and distinguished on the other side, has said it was drawing the line too narrowly, to say that we met here for the purpose of acting upon the question of suffrage alone. We are here to purify the ballot, he said. I do not understand that there is any way to purify the ballot, except to eliminate from the right of suffrage those who are incompetent to exercise that right, and it seems to me the plan offered by the majority is the only feasible means of eliminating them. Then it is not stating it too broadly, when I say it is for the purpose of correcting the evils existing in the suffrage here. We know how many of these evils have grown in Alabama.

I went with Senator Morgan into north Alabama when he made that celebrated campaign in which he told us of the condition of the Black Belt in the State of Alabama, in which he told us of Roddy Thomas, the negro judge that presided over the City Court of Selma. Now, as a matter of fact, we were

told then of the carpet-bagger who was elected commissioner and of the contracts that were made with men in other States to build bridges and public works in Alabama at a cost of four times what it would have cost to build them at home. They squandered the peoples money and it amounted to this, that the people who lived in the Black Belt which is the fairest part of creation, where it seems as another has beautifully said that "Nature was in her happiest mood when that part of the world was made, when her valleys were depressed and her mountains raised saffron crowned and vermillion embroidered." The white men had to leave or control it, and if the white man left it, no other white man could be induced to come to it, because the negro was so numerous that no white man would desire to live among them. Some say you cannot afford to adopt the majority report because it eliminates too nearly all of the negroes. It is better than the negro has now, if you look from the negro's standpoint, does not the negro have more rights under it, than he is exercising today, the way things are? As Mr. Cochran said here in Montgomery, hasn't the Fifteenth Amendment as a matter of fact been nullified, and will he not have more rights under the article suggested by the majority report than he actually has now? When you learned how to eliminate the negro, and the reasons were set forth for it, the trouble was that they did not stop by eliminating the negro, and fraud has been practiced even in the Democratic primaries by white people. When we had a division between the white people eight or ten years ago, it was not so much beause of any difference existing on governmental policy between the white men in Alabama, as because of the fact that a great number of white men believed that by the methods employed, their voices had not been heard in the State of Alabama. When that is practiced among the white people and it comes to the point that whoever has the machinery receives the nomination and we teach it to our boys what will the result be? If a boy asks you is this right, which he sees practiced here, what are you going to tell him? He didn't live at the time of slavery, and of the carpet-bag rule, but he comes today and wants to know if that is right, which has been practiced in politics here, and you tell him it is right to do it to get an office paying from $400 to $2,500 a year, you teach him that it is right to steal to swear a lie and if you put that boy in business in a commercial way, and he sees an opportunity to get $400 or $500 by improper methods, he will say I was taught that to get an office paying a few hundred dollars a year I could afford to swear to a lie, and here is $500 that I can get by doing it, and I see no difference between this and other matters. Thus you blunt the moral sensibilities and make a lot of thieves and villains in

your land. That is the condition that confronts the people, and that is the condition we are met here to remedy. A man's moral nature is not made up like a house. It is not fixed so that he can have a parlor to keep his clean linen in and a kitchen to keep his soiled linen in; but when you saturate him with corruption, it goes through his entire nature. It does not stop in any one part, but goes through his entire nature. It seems to me that this ought to be prevented, and one object I had—one of the chief objects I had—in wanting to come to this convention, was to do what I could to make it easier for the mothers of the State of Alabama to raise honest boys in their homes, to make it easier for them to be honest by removing the temptation from them, because you open the way to preferment through honest methods, and the way for the exercise of the energies by honest means. I think that is sufficient of itself if we can put the family—if we can put the young men on a higher plane in our land. Why, sir, there is but one sentinel on the watch towers of liberty in republics, and that is a free man with a ballot in his hand, voting for you or I, because we agree to put in the law a great principle that he believes will bless his fellow men, and a man is a traitor, and it would be treason under any ordinary circumstances, for a man to offer to bribe or offer to sell a vote in a republic. Whenever the times comes when it becomes a little more respectable to buy a vote, the test of eligibilty will not be the fitness of the man for the place, but the length of his purse. That would be under such a condition, the only test of eligibility in the future. We want to remove the possibility of such conditions in Alabama. When the time comes that the ballot reflects nobody's sentiment, but is cast in obedience to the dollar—when you count dollars instead of ballots, you count slaves instead of free men. There is no question about that.

Now, I want to say that I have gone hurriedly on this line. I am glad in an humble way, when quite a boy, I helped to drive the carpet-bagger out of the State of Alabama, and while I am as far as any living man from wanting to revive the feelings of the war, I respect the motive that control the white people of Alabama in that war, and in that conflict that occurred after that war. And I look back yet with pleasure at the heroism and the courage that we displayed in that emergency, a courage that is without a parallel in history. I am satisfied with the results of the war, as my distinguished friend from Jefferson said the other day. I am absolutely against slavery now. I was a mere boy when the war began. I did not know the rights and wrongs of slavery. I heard from the hustings that it was right. I heard it was right from a Bible standpoint. Slaves were worth $1,000 apiece, and from

that standpoint, which, by the way, was not the least of them, I believe it was right.

Mr. BEDDOW: I move that the gentleman's time be extended for half an hour.

Mr. BLACKWELL: It will not take anything like that amount of time. I was just on the verge of saying when I look back at the heroism of those splendid men engaged in that conflict, while I am satisfied in every way with the abolition of slavery, and I do not believe it was right, and I think the world was against it, and, as my friend says, I think it was doomed, I am satisfied with the motives that permeated those men and the spirit that moved them and the deeds they did. When I look at their courage, I can say, in the language of Burns:

"Still o'er these scenes my memory wakes,
And fondly broods with a miser's care;
Time but the impression stronger makes
As streams their channels wear."

Now, Mr. President, I am sorry that my time was so limited, but I recognize the fact that I ought not to have an extension of it, as there are too many gentlemen here who want to speak in regard to this matter.

Now, some gentlemen have talked about the harm of recognizing especially those men who had obeyed their country in her hour of direst need. I want to say we have it recognized in the United States Government in the pension list. A few years ago I paid to seven people, who were daughters of soldiers of the Revolutionary war, pensions during this decade, and I paid to a number of the widows of the soldiers of the war of 1812 pensions and to many of the widows of the soldiers of the Mexican war and children of soldiers of the last war, and to widows of the soldiers of that war, and how these gentlemen can say that it is right that the soldier should vote, and they do not object to that, and think it right that he should vote without restriction, and yet follow right along and object to his descendants voting upon the ground that it is unconstitutional, I cannot understand. These soldiers have made for themselves a reputation throughout the world, as great as any set of men who have ever lived in the world's history.

As another has said of them, that "Some of the grandest and some of the holiest memories, some of the loftiest and some of the proudest deeds that glow amid the nation's archives, flash out like burning suns on the old historic rolls, cluster around the old Confederate.

Yes, we weep for them, of them when they were slain as did the exiles of Israel by the waters of Babylon.

"We know they dared do all that men could do, and he who dareth more, is none." We recognize that fact, and these are the men and their descendants that we want to put on that roll of honor. The old red fields of Roman and Grecian valor, the dread pass of Thermopylea, the corpse filled bosom of the battle plains where Spartan courage died, paled before the deathless splendors of heroism flashing from the bloody waters of the immortal Potomac to the waves of the Rio Grande.

The old Confederate suffered defeat which brought desolation, sorrow, mourning, woe and penury, but thank God it did not bring dishonor, and even from a generous and brave foe, they have won the meed of immortality, of which a conquering hero might fell feel proud. Men who have battled so bravely and endured so grandly can never perish amid the exiled darkness of oblivion. These men should be honored for what they did. The immortality which wreathed forever, the deeds of these men shines around about us here, and call upon their boys to remember whose sons they are and whose honor they have in keeping. In every age of the world pure patriotism and lofty courage have been historic synonyms, such pictures of heroism have been rescued from the Lethean waves of oblivion by the harp of classical song and story. We need not turn to shaded paths of Grecian and Roman valor to find the shining thoroughfares where princely warriors crown the world with the immortality of their deeds. We need not search the storied archives of Spartan valor for names forever wedded to immortality. We need not pour over the sunlit records of genius reared by Homer, Virgil, and Caesar to consecrate the majesty of heroism. The bloody annals of the world's warfare gleams with no grander names—no deeds of sub-
84 lime heroism than those of the old Confederate soldier. Their daring deeds will live as long as patriotism has a friend, or virtue a champion, or heroism an admirer.

There are many things I would like to say in connection with them, but I want to say in this connection that if we relieve Alabama of the ignorant, if we relieve Alabama of the vicious vote, of the incompetent vote, then there is no State in the Union that offers so much to the emigrant as Alabama. Think of the mineral resources, think of our iron mountains, think of our land carpeted with emerald green fringed with forest. Think of our rivers which are tied across it like bows of silver, and the bay thrown around it like a golden mantle, and think of the character of the civilization of the people here, and where is there a spot more inviting than the State of Alabama. If we do our duty here, and eliminate that ignorant element, then the generations that come after us, in the language of the poet will say:

The monarch may forget the crown that on his brow an hour hath been;
The bridegroom may forget the bride that was made his wedded wife yester'e'en;
The mother may forget the babe that climbs around her knee;
But never will I forget, Alabama, what thou hast done for me.

Mr. MILLER (Wilcox): I will not detain you long in presenting my views upon this suffrage article. The article in its entire make-up has my hearty support, not only as a member of the committee which has submitted it to the convention, but as a delegate upon this floor. Technically, the only question that is presented by the proceedings as they stand now, is the objection to the descendants' clause in the temporary plan, but properly the debate has extended over nearly the entire article, meeting a suggestion made by a distinguished delegate, that perhaps the best way to present the question was by a running debate covering the entire subject.

In reference to the descendant's clause I will state that individually I would be opposed to that clause if it did not occupy the special position in the plan which it does. If the descendant's clause was made a part of the permanent plan proposed by this article, I could not support it, but standing as it does in the temporary clause, I cannot see how any delegate can oppose it upon any of the grounds that have been suggested, either the ground of unconstitutionality or the ground of inexpediency. I will not say anything upon the subject of its constitutionality. That question has been illumined by the best lawyers and the best debaters of this convention and it would be superfluous on my part to attempt to add anything to what they have said. To my mind it has been made clear that it is not unconstitutional. By the temporary registering plan embraced in this article, there are three great doors by which the voters of Alabama can enter into the field of the electorate. The first is the door of the soldier, and that admits all soldiers. True, in some of the wars enumerated there were no negroes who were soldiers, particularly in the American Revolution and the war of 1812, but in the liberality of this provision as submitted by the committee, the negro race has no ground for complaint, because in the enumeration, wars in which he did participate are not left out, and to my mind that eradicates any viciousness in the plan. If it was the purpose of this committee, or it should eventually be the purpose of the convention to eliminate the negro because he is a negro, then, gntlemen of the convention, no war should have been men-

tioned in which he did participate. It may be that this plan will be looked upon with a great deal of favor, because there is mentioned in it the soldier on the Federal side during the great Civil War. Those who stand off at a distance, or those who may be in our midst who would otherwise conceive that we had a prejudice, and that we were actuated by prejudice in this article or actuated by prejudice in this clause of the section, to my mind would look with kindness and with consideration upon our effort to rid the State of the vicious and incompetent voter, when we have risen to the height of saying that the Federal soldier and the descendants of the Federal soldier may enter into the life electorate list in our State. To my mind it seems that this clause eliminates, or meets and fully answers any objection that might be raised, that we were acting from prejudice against the negro, or the soldiers who fought against us in the great Civil War.

Mr. President, I would make one suggestion. I do not know that it has been made to the committee, but it will doubtless be made when the part of the article is reached, and that is in enumerating the three grounds of the temporary plan, which only runs until the 1st day of January, 1903, that we should change the position of those grounds and say, first, that any man who has a good character and who understands the duties and obligations of citizenship under a republican form of government. Let that be the first subdivision of Section 4, I make that suggestion for the reason that in the ordinary mind, in the minds of all of us here, and outside among the people, it is naturally supposed that the most important ground is stated first and it does seem to me that ground has a wider field and broader operation than either the first or second, the soldier or the descendant of the soldier. When suffrage is based upon the proposition of doing honor to the soldiers of our country, of course that embraces a limited number of our citizens, large, it is true, but not covering the whole ground. When we say the descendants of soldiers, that enlarges the field somewhat, but, gentlemen of the convention, when we say all men of good character that takes in, not only the soldier and the descendants of the soldiers, but it takes in all those whose good fortune it may be, or whose ill fortune it may be, has not permitted them to render service to their country in the line of war.

As I stated, Mr. President, I would not support the descendant clause of this section, if it were placed in the permanent plan. Under our plan as presented to this convention and as I believe this convention will present to the people of the State, we say the soldiers of the wars named, and that

number cannot be increased, because there is no enlistment going on now, and therefore, the book as to the soldier is closed. He is a voter now. It is not an increasing class, so far as I can see, although wars may come in the future, but the wars are specifically named, and under the temporary plan while the soldiers are taken in, we have closed the book. Every soldier in the State of Alabama of the wars named can go up to the registrars and have their names placed in this electorate list, which is a life list. Then the descendants of soldiers, those who are now voters, and that small number who may become voters between now and January 1, 1903, are alone affected by that proposition in the temporary plan. The provision remaining in the temporary plan does not make the white man, the soldier and the descendant of the soldier rely upon the first proposition in the electorate. To transfer the descendant clause into the permanent plan, Mr. President, and gentlemen of the convention, would be to put a premium upon ignorance among our own people, those whom we desire to see elevated and those whom we have met here to help elevate themselves. This convention is confronted in this proposition with that grave question that has presented itself to every constitutional convention that has ever met for the purpose of elevating the qualifications for suffrage. It is a most delicate proposition. The very fact that we want to elevate the suffrage shows that there is an incompetent vote inside the ranks of voters, but it is a hard question to deal with an incompetent voter, when he already has the ballot. That is the question which confronts us today. That question presented itself in the State of Massachusetts. She had her election law passed in 1857 and operated under it until 1894. Massachusetts desired to elevate the qualifications of the electorate and she wisely took the precaution in 1894, when she raised the standard of the electorate to put in a proviso that it should not affect a single man that could vote under the law of 1857. That is what we are trying to do now, with reference to our white voters. They have voted all their lives and their fathers have voted; they have fought and bled and their ancestors have died for their country, and we are endeavoring to hold them this privilege and not to create a new honor to give them, but merely to enable them to retain the honor and privilege that they have enjoyed and their ancestors have enjoyed for so many years. This plan does not put it into the permanent plan, but after the 1st day of January, 1903, the constitutional proposition put to the people of Alabama is, that all the white voters who are competent to vote under the old law and all who may become competent to vote between now and the 1st day of January,

1903, can go into the list, but after the 1st of January, 1903, no longer can the soldier or the descendant of a soldier come up and claim the privilege of being admitted to the electorate.

Mr. President, some objection has been made to the life list. If we will consider for a moment, we already have a life list, and we have operated under it for years. We operated under it until the Sayre election law was passed, and that law required all the people of Alabama to register every two years. Well, that was a trouble and an annoyance. When a voting citizen of the State has once been qualified and certified and admitted into the electorate, he does not want to keep it continually before his mind that he must go up and secure his privilege again, and that feature of the Sayre election law was repealed years ago, and any man who registers now is in a life electorate without further registration, except, perhaps, upon a change of residence. Therefore, Mr. President, I see no objection to that. We have been living under it, and while it has not been called a life-electorate, and it has not been provided that it must be put into a book, to be kept alphabetically by precincts, one copy of the book to be kept by the Probate Judges of the State of Alabama, and another copy of the book from each county kept by the Secretary of State, giving great dignity and importance to the life electorate, yet our attention has been drawn to it now in a way which we have not heretofore considered the matter and we imagine it is a new thing, but the life electorate is as old as our laws, except the little interregnum of time when the Sayre election law was in force.

The registration part of this article has not come up for consideration, but it has been argued and it is noised around, both within our circles here as a convention and outside with the people, that there is some reason for alarm in reference to the registration clause of this article, and what may be considered in some quarters as serious alarm. In the discussion of this great question before the committee, (and that committee sat for over thirty days discussing every feature of it), laboring hard to present it to this convention in its best form, answering all of the objections there that could possibly be made to it, this much-talked-of descendants' clause was put in, in order to answer any alarm with reference to the registrars. This alarm with reference to the registrars springs out of a want of confidence of man in man. It was said in the committee that if you put in this temporary plan one sole ground, that of good character and understanding of the obligations and duties of citizenship under a republican form of government, and let that be the ground upon which voters are to be admitted into the electo-

rate by the registrars, that inasmuch as the Governor is a Democrat, the Commissioner of Agriculture and Industries, another member of the appointing board, is a Democrat, and the Auditor is a Democrat, that Democratic registrars would be appointed in every county, and the alarm would be heralded over all the State that these Democratic registrars under the broad license of good character and an understanding of the duties and obligations of citizenship, would say to the opposition, the white Republicans and to the Populists, we will not allow you to register, because we do not consider you to have a good character or that you understand the obligations and duties of citizenship." So the descendants' clause and the soldiers' cause, outside of the merit that rested in them, were put in as a matter of expediency and policy to meet the fears that were abroad in the State, so that a man coming up to register, if he is denied because of the want of character, could say, well, I am a soldier, and that is self-executory and admits him at once, or I am a descendant of a soldier, and that admits him without further inquiry. So, it was for that reason in part, but not wholly, because the soldier clause rests upon a meritorious ground of its own, and, in my judgment, the descendant of a soldier is not unreasonable or capricious; but there is also a thread and a very strong thread of merit running through that proposition.

The registrars must act in regard to this matter. No law is self-executory, though you write it in a thousand books, and unless you put a personality behind the law, it is dead. There must be somebody to carry the law into execution. There must be an executive or the law is dead; there must be a judiciary or the law is dead. The life of the law is found in the personality of its officers, so we are bound to have registrars, and it is impossible to get along without them. Under the very simple constitution on suffrage that we have now, where a man has only to effect his residence and attain the age of twenty-one years, you have to have a registrar put his name down, to see that he is twenty-one years of age, and to see that he has acquired the proper residence, and even now there is some latitude, but not much, for the registrars. It is true, Mr. President and gentlemen of the convention, in this good character clause, there is some latitude for the registrar, but it is only temporary. Mr. President and gentlemen of the convention, these registrars get their existence from the representatives of the people, and no one ever heard of electing a registrar, and in all the constitutions of all the States there is no provision for such a thing. We would not dare to come before this convention as a committee and

submitted a proposition that the registrars should be elected by the people. Then where would you go? Would you go to the highest official of the county? It was suggested and discussed as to whether we should take the Probate Judges, the sheriffs and clerks of the courts in the counties, or any one or the three of them, to constitute this board, to appoint the registrars for their respective counties, but that was found objectionable. The great county of Jefferson is vitally interested in the registration system of Wilcox County. Jefferson County does not want a board which might stuff the registration list, and neither does Wilcox County desire that Jefferson County should stuff her registration list. Our population, our voting population, and our property value in every county in the State, bear relatively upon every other county in the State, and if you put this power in the Probate Judge and the officials of the county, they will form clans of their own. The distinguished gentleman from Jefferson, the chairman of the State Committee, if we had come in here with a proposition to let the Probate Judges and local officials make these appointments, might have said with some force, that it was a plan or a scheme to permit these counties to manipulate these matters to suit themselves. In order to relieve that, gentlemen of the convention, we recommend to the convention and we believe that the convention will recommend to the people of the State of Alabama, that these registrars should be appointed by the highest authority in the State, by your Governor, the Commissioner of Agriculture and Industries and your Auditor, elected by the whole people of the State, forming an honorable, responsible board, who will appoint three men in each county to perform this duty. Where else could we have better placed this power than right there?

So much has been said about registrars and so many insinuations have been made with reference to certain counties, that the indignation of this convention has been excited, and it has pleased us gentlemen of the convention, to see men from north Alabama rising in their seats to condemn these insinuations as to what the Black Belt might do to dishonor the constitution that this convention would submit to the people. We consider it an outrage to make such a charge. We have stood for twenty years battling for civilization in the Black Belt. We have preserved those counties' civilization in the hands of the white men of those counties, and, gentlemen of the convention, the whole State of Alabama has reaped the benefit of it. We have been encouraged to do it. We have been applauded on other occasions for doing it, and it is passing strange, indeed, for us to sit here and listen to insinuations from high authority that this is a scheme left open that we might do injury to the great State of Alabama. Gentlemen of

the convention, we started this cry for a constitutional convention twenty years ago. When it was forced upon us, that we had to stand outside the law to maintain ourselves, we then raised the cry to open the gates and let us get inside the law. We have cried for it and it has come. These great movements do not come in a day. We cannot get a great State like Alabama to move suddenly up to the point where we are today.

Mr. HOWZE: The time of adjournment is near at hand, and I move that the gentleman's time be extended until he finishes his remarks, giving him the floor after dinner.

Upon a vote being taken, the motion was carried.

Leaves of absence were granted to Mr. Tayloe, Mr. Pitts, Mr. Reese, Mr. Hodges, Mr. Eley, and Mr. Weddell for today.

Mr. WILSON (Clarke): I notice in the gallery the distinguished Representative from the Congressional District in which I have the honor to live, and I move that the privileges of the floor be extended to the Hon. G. W. Taylor.

Mr. KNOX: Mr. President, I had a similar resolution to offer.

Mr. HEFLIN (Chambers): I make the point of order that more than a month ago the privileges of the floor were extended to the gentleman.

Mr. WILSON (Clarke): That being the case, I withdraw the request.

The convention thereupon adjourned.

Afternoon Session.

The convention met pursuant to adjournment, there being 90 delegates present upon the call of the roll.

Mr. Heflin of Randolph, took the chair.

Mr. SENTELL: I would like to have unanimous consent to introduce a short resolution to be referred to the proper committee.

Unanimous consent was given.

The secretary read the resolution as follows:

Resolution 274, by Mr. Sentell:

Whereas, there are many members of this convention who desire to give some expression of their views upon the question now under consideration, and whereas, they will not be permitted to do so under the present rule of long speeches. Therefore, be it,

Resolved, That on tomorrow, Tuesday, up until 12 o'clock, the hour of voting, all speeches be limited to five minutes in length.

Referred to Committee on Rules.

Mr. MILLER (Wilcox): Mr. President, I thank the convention for the extension granted at the close of the morning session.

At that time I was speaking on the subject of the registration under our pending article. The article provides for a constitutional registration which is a temporary registration as stated. The registrars appointed under this constitutional system of registration go out of office on the first day of January, 1903, they cease to exist as registrars after 1903, then comes into existence the permanent system of registration under this article. No provision is made for that except to state that the legislature shall provide for registration under the terms of the system. The Committee on Suffrage deemed it wise to provide a system of registration because the legislature will not meet in time to do this. That is the main reason for the registration system which is provided for in our constitution and which is presented to you in this article. It has been stated on the floor, and I have heard it off of the floor, that registrars are to be appointed three in each county under the small consideration of pay of $2 per day, that this would secure in the service of the State, in this great and important work, third class men. Mr. President and gentlemen of the convention, your committee had that seriously under consideration what pay should be given registrars under this system. We looked at the expense of registering the entire voting population of the State, and saw that it would cost a great deal. Propositions of three dollars, two dollars and a half and two dollars a day were seriously argued and considered by the committee. As a matter of economy to the State, two dollars per day was adopted, and I believe that will secure for the service of the State good men in every county. The article designates and photographs these men to the Governor and Commissioner of Agriculture and to the Auditor, gives them what kind of men should be appointed in the county, reputable and suitable men. Now, Mr. President, we believe that in every county in the State, not solely for the consideration of two dollars per day will that secure suitable and competent men, but we will secure good men, and this will pay their expenses and they will largely contribute their services in honor of the State and to help us in this great cause. It is not considered that the two dollars per day will be full compensation for this great work, but in connection with the patriotism of our people, at least in our part of the State, we are satisfied we can secure good men, the best in the county to serve the State of Alabama in this great work.

Mr. DE GRAFFENREID: May I interrupt the gentleman a moment? The State of Alabama only pays these delegates to this convention four dollars per day, and they pay their own expenses.

Mr. MILLER: Yes, sir; and the registrars in canvassing the counties in the State of Alabama will have very little expense

unless in crossing a river and paying ferriage. Two dollars per day will be ample to meet any expense that they will be put to, and more too. Of course large counties like Jefferson and Montgomery and Mobile, where they have to lodge and spend a great deal of time, in those large cities they will have more expense than out in the rural districts, but with us in the rural districts—and we constitute the great body of the State of Alabama—the registrars will go from beat to beat, and from precinct to precinct, and not have any lodging or horse feed to pay, only occasionally to be put across the river at a small ferriage charge. So we allowed that two dollars would secure all over the State of Alabama competent, suitable and patriotic men who will discharge this duty to the State of Alabama. Mr. President, as has already been alluded to in the argument made by our distinguished president, we selected the Governor, Auditor and Commissioner of Agriculture because they resided in different parts of the State. One, the Auditor, in north Alabama, the Commissioner of Agriculture in the Black Belt, and the Governor in the southeastern portion of the State, so that in settling this great question of registrars, every portion of the State will be fully, fairly and equally represented. We have endeavored in this article, Mr. President, and in all these clauses that are under argument, to present to this convention a fair disposition of this great question, which is the question which brought us together. So, Mr. President, we see that there is no ground, there is no serious ground, there is no real ground for any man to suspicion or to insinuate or to charge that this scheme is left open for some unlawful purpose. Why, it might be as easily charged that the door is open in Jefferson County, as that the door is open in Wilcox County. Is it to be said and is it to be understood, that because we have maintained up to this good hour the supremacy of the white man in the black county outside of the law, that therefore we will do it when the law will condemn us? Mr. President and gentlemen of the convention, the adoption of this constitution will work one great revolution in the Black Belt. There are thousands of the best men in the State of Alabama, whose hearts have always ached because we had to go outside of the law to maintain ourselves. We have clamored for an opportunity to stand up in court with very truth upon our lips and we have prayed and worked for this hour, and is it to be said now because this constitution is adopted that we will continue to live outside of the law. So far, Mr. President, there has been such a dire necessity upon the white people of the Black Belt to go outside of the law that there was not and could not be any public sentiment to condemn it. But as I said with those men in the Black Belt, when they called into existence this

great convention, and it is a great convention, to do this work at an expense perhaps of seventy-five thousand dollars to the State of Alabama, and open up the way by which our people can live inside of the law, there will be a public sentiment in the Black Belt, and a public sentiment in favor of all things rising far above even a constitution or a statute, we will have a public sentiment that will aid this constitution, we will have the public sentiment that called the constitution into existence, we will have a public sentiment that will permeate every statute passed upon the subject. Therefore we say that it is gratuitous, that it is uncalled for, and that it is mortifying, that insinuations should be made that the door is left open for certain counties. Mr. President, the permanent election law, the permanent qualifications to the franchise—we have met to elevate the qualifications for suffrage. As stated in the argument in the morning, no State can take the whole body of a people and raise them up to the second story at one effort. We have built by this article a stairway from the floor upon which our suffrage now rests, up to a second story. We have laid the steps, three grades of steps, to elevate our people into the second story, into an elevation on the suffrage question. We want to build our people up, a government should seek to elevate its people. We have put step by step good character, the soldier and the descendant of the soldier, and then after the first day of January, 1903, we have made a broad platform —as good a qualification for suffrage as exists in the United States. We have said while that is high compared with where we were, still it is not too high. We have said he who can write and read an article of the Constitution of the United States and who has been employed regularly for the last twelve months can vote, that is to a man after the first day of January, 1903, or if he cannot write and read or should be wanting in regular employment and cannot come under that clause, why then this instrument says to him, if the convention adopts it, any man who owns certain property, forty acres irrespective of its value, and there is wrapped up in that forty acres the germ of a noble principle in suffrage. It is crowning the home with honor; any man who owns his forty acres irrespective of its value, or other real estate of three hundred dollars in value, or personal property of three hundred dollars in value, or if his wife and he the representative of her and his children own three hundred dollars of real or personal property, should be entitled to vote. That is saying to the people of Alabama, taking the two systems together, the temporary and the permanent, the temporary saying here is the life boat it is coming along for sixty days through the country, and a few more days in the large counties where they have large cities, and all soldiers, descendants of soldiers, all who are of

good character get in on the life boat. Then the book closes and the State of Alabama says to all of her people, no more soldiers, we are taking care of them, and have taken care of them; no more descendants of soldiers, because we do not want to put a premium on ignorance in our own blood, but you must come up on the question of intelligence and industry, you must come up on the question of intelligence and industry, you must come up on the question of property, in order to take part in the conduct of this great government.

86 Mr. SANFORD (Montgomery): Do you take care of the descendants beyond 1903, or soldiers either?

Mr. MILLER: No, sir; the soldiers are all in. Mr. President, this is the permanent plan, and the two plans taken together, when this constitution goes out to the people it says here is provision for all you soldiers now, and if all of you are of good character and understand the duties and responsibilities of citizenship, whether you are black or white. Then close the book, and then it says there is the school house, and there is the appropriation to pay the teacher, and you voters who have been made safe must put your children in the school room, you must teach your children to accumulate. We have made no guarantee to unborn ages of the ballot. We would be traitors to our own blood if we did, outside of their personal exertions. We must put the coal of fire upon the backs of those of our blood when we are putting it upon the back of a black man. We must not remove the incentive from one race and keep it upon another. Much less would I remove the incentive from my own race.

Mr. OATES: I would like to ask the gentleman a question.

The PRESIDENT pro tem: Will the gentleman yield?

Mr. MILLER: Certainly.

Mr. OATES: Just now I understood you to say that it has been insinuated in the convention that the present scheme in registration was to enable the Black Belt counties to make a false registration or perpetuate a fraud?

Mr. MILLER: Yes.

Mr. OATES: Do you attribute that or any of it to the minority members of the committee?

Mr. MILLER: Not one of them, never heard a syllable from a member of the minority report of the committee, but it was made upon this floor and it has been made outside.

Mr. DE GRAFFENREID: I would like to ask the gentleman a question.

The PRESIDENT pro tem: Will the gentleman yield?

Mr. MILLER: Yes, sir.

Mr. DE GRAFFENREID: I would ask you if it is possible for any such fraud to be perpetrated, does not this provide that there shall be a list of persons registered and placed in the probate office, and another list sworn to by the registrars and sworn to by the Secretary of State. If that be so, how could there be any fraud?

Mr. MILLER: Mr. President, this law requires that the registrars shall make out a list, and file it with the Probate Judge of the county. The Probae Judge of each county is required and he is paid for it, to take that list and make it out alphabetically by precincts, make it out in duplicate, in well bound books, one he retains in his own office and the other is filed with the Secretary of State. That list, filed by the registrars, and those duplicate books made from that, compose the names of every man who is registered in the county. I will not consume any time discussing the superiority of the white man over the black man. As far as I am concerned I have for a long time been satisfied on that subject, but I think that this article as presented by the Committee on Elections and Franchise is one of the best proofs that the white man is superior. Why, Mr. President, if a stranger from somewhere away off should have been sitting in the gallery and listening to the debates here he would have been led to conclude that the question of our superiority was doubtful, it has been so publicly, constantly and eloquently argued. That is a conceded proposition, and the article before us, Mr. President, is a magnificent tribute to our superiority. Here we are assembled, presumed to be the leading men of the State of Alabama in constitutional convention assembled. Not a negro sits upon the floor. And so far as that is concerned, we have all the power under the limitations of the Constitution of the United States. But when you read this article which has been submitted you will find in all of its analysis in favor of the first proposition that where he was in war we have admitted him as a soldier; where he is a descendant of parents that were in a war, no matter whether a war for us or against us, we have admitted him. We have put the general noble clause, every man of good character—and who is afraid of that, only the man whose character is in dispute is afraid of that clause. Every man of good character can come in and there will be negroes that will come in under that clause. I lay it down that here in this very article itself, is not only a declaration of the law made by white men, but it is a declaration of the highest law that the white people of Alabama can make, and under it the negro will be treated fairly. The adoption of this constitution will work a large advantage to the negroes of the State of Alabama. I have a tender feeling for the negro. Every allusion to our obligations to him that has been made in

this convention by distinguished men, eloquently and truthfully made, has found an echo in many a heart where the echo has not been expressed we do regard him, and the adoption of this constitition will be the best thing for him. In the history of my county, Mr. President, after the war, after 1867, when the negro by the Fifteenth Amendment, and admission into politics was brought into active controversy with the white men, why our court houses had a different air about them—when he went to the ballot box against us by thousands in the majority. When he came into the court room the antagonism was there, but since 1880 and some years since when he has subsided, sleeping around us as a volcano without eruption, the court room was a different air. It is better, the laws are more fairly administered, the antagonism has been removed, and when this constitution has been adopted and the unworthy and the incompetent are cut out he will stand before us as an ordinary citizen without antagonism to the superior race, and we will look with sympathy, we feel the trust that this great instrument has reposed in us by making us in fact and in law the superior as by nature we are. Now we only have it by nature, this constitution gives it to us by law, and that will create the springing up of a feeling to do justice in all matters, in dealing in the courts, and all his civil rights will be more firmly and cheerfully accorded to him. We hear a good deal about the opposition to this constitution that we are framing. We hear a great deal and read a great deal in our newspapers criticising this matter, criticising the length of our stay here, but that is all natural. That is to be expected. I was impressed the other day in a conversation with—I was going to say a distinguished gentleman from Mississippi, but I will say intelligent gentleman from Mississippi, the word distinguished has a promiscuous use. He was an intelligent man, and said while the Mississippi convention was in session nearly every paper in the State was criticising its delays, its slow movements, criticising this proposition and that proposition, but he said when they closed the book and submitted it to the people they all came out as one man and supported it.

Mr. OATES: Do you know how many days they were in session?

Mr. MILLER: Three months, I understand.

Mr. OATES: Ninety-four days.

Mr. MILLER: In session ninety-four days and severely criticised, not only for measures they adopted, but measures they refused to adopt, for the length of time they remained in session. In Kentucky it was the same way, I understand, they were in session seven months in Kentucky.

Mr. OATES: They were in session nine months in Kentucky as I was informed by Mr. Walker, who was a stenographe to this convention until recently.

Mr. MILLER: It is perfectly natural for criticism to sprin up on the outside—we have it on the inside. A propositio springs up here and we have able and long argument on both sides. We have antagonism here, and they g out all over the State of Alabama, through the heart of the people who participate in these debates and tak sides, but when they settle the matter in this hall our minorit submit to the will of the majority on whatever proposition i may be, quiet is brought within this great rank of men an quiet goes out, and after the wave of dissent and criticis will come the wave of content and satisfaction, and I say it i my firm belief and my expectation that when this conventio of men such as are here seals the book and sends it forth t the people, just as we subside here so will calm and satisfa tion spread out all over the State of Alabama, and our consti tution will be adopted.

Mr. SOLLIE (Dale): Mr. President and gentlemen of the co vention, I am for the "grandfather" clause as it appears in th majority report of the committee, except that I am more s I believe the "temporary plan" is too short, and that it shoul be extended a couple of years. I have, therefore, prepared a amendment so extending it, which I shall offer at the prope time, and which I shall discuss in connection with what I hav to say upon the section as a whole.

In the early stages of the debate on this section I was mor anxious to address you than I am now. I felt deeply inte ested in the "soldier" and "grandfather" clauses, and had ru down with care the arguments upon them, and satisfied mysel reasonably of their legal validity. Like others who have ad dressed you, I was anxious to submit the result of my investi gations for your consideration; and I was disappointed when learned that a program had been arranged which rendered i impossible for me to obtain the floor according to our writte rules, which give it to the first to claim it. One by one m own arguments have been made and remade by those wh have preceded me, till I have little appetite for threshin the much beaten straws over again. It were probably as wel that I, like some pleaders in chancery, simply adopt the al legations and denials of my co-respondents. I think I shal do so; and as part of my speech I here and now urge that yo bring again in review before your minds the very able argu ments and reasonings offered already in support of the "grand father" clause of the section. No abler efforts were ever mad in this hall in support of any proposition. This much done, might well rest the cause; but I, too, have a pride of individua

opinion which I will not surrender till I have contributed such arguments as seem yet left to me in the case.

When Napoleon lectured his army near the pyramids in Egypt he told them that forty centuries looked down upon them. Perhaps so many centuries do not look down upon us; but the attention of a greater people and government than Napoleon knew is fixed upon us, and the liberties and happiness of a more highly civilized State than his dreams ever saw are entrusted to our charge.

After ceding to us our possessions of the west, Napoleon stated that he had given to England a maritime rival which sooner or later would humble her pride. He builded more wisely than he knew. While we are great in maritime achievements, it is in the science of civil government that the country whose boundaries he extended has made its most marked progress. That essentially military genius would probably stand transfixed in wonder and amazement if he could behold now the ripened product of our peaceful labors of the nineteenth century, if he could look upon us as the rising sun of the new century baptizes the magnificent and colossal structures we have erected with its kisses and warms our hearts and enlivens our hopes with its embraces.

But our history records a grievous error. Our fathers made one mistake which has proven a perpetual handicap to our sunny southland and placed it in almost hopeless discord with the other sections of the Union. It was contrary to the principles of freedom and liberty embedded deep in the American heart that slavery should exist in our midst. The negro, the slave, was not indigenous to our country nor kindred to our blood. His presence whether as a slave or as a freeman, became an element of discord. His enslavement for a time was the only treatment for his existence here. We adopted it. In fact, brought him here that he might become a slave. But in doing so we committed a national sin. The God of the Universe did not counsel it. It was our sinful love of power and gain that dictated it. We might have known that the retributive hand of the Almighty would rest heavily upon us and our children. Our crime may not go unpunished. I, for one, believe that a national good to the negro has been and will be yet further wrought out as its result. I do not know nor do I seek to learn the final extent of character of that good. He who does all things well will bring it out in His own good time and way. But we are remitted to our own accounting. What shall it be? These veterans whose faces I see can answer that question from their experience. We began the accounting when the blood of our fathers first received the taint of aristocratic indolence, and they began to shun wholesome effort and to rely upon the labor of the slave and feel too proud them-

selves to work. It was continued in the bickerings which preceded and let to the war between the States. That war was part of it. Our reconstruction was part of it. The shamefully corrupted suffrage of recent years is part of it. Our prostrated and devastated south, our unequal opportunities in the race of progress and the graves of our dead heroes are all parts of the painful accounting we have thus far given for the sin committed. Yet, with all our sins, we of the south were more sinned against by our brethren of the north than sinning. They were our partners in the original sin; but they took advantage of the climatic conditions which brought the negro to the south to wash their hands of him, and then turned upon us to persecute and destroy us for the very crime they had helped us commit. They did not become the worst of known oppressors, for they left life in a small remnant of us and allotted to us conditions under which it was possible for us to prosper. But I challenge all history for an instance of more radical wrong than was their enfranchisement of the freed slave with its accompanying reconstruction measures. Nothing short of the most intense hatred could have led to it. It was as if the victor should
87 stoop above his prostrate foe and inject into his veins a virulent poison that would corrode and stagnate his blood and infest him with corrupting sores all the day of his life. I do not remember the bitterest of the experiences nor the gloomiest of the days that followed, as the older delegates here do, but the spirit of my father, who gave first his fortune and then his life to the Lost Cause, lives in me, and swells my bosom almost to bursting when I remember our wrongs. I am a son of the South and love its weal and depreciate its woes. This convention is called that we may in a peaceful and lawful way correct the evil as far as possible, and presents to us for settlement for many years to come the relative political status of the white man and the negro in Alabama A more difficult task was probably never given to a body of men. We stand here hedged about on the one hand by the Fifteenth Amendment to the Federal Constitution; on the other by pledges to our people, to our fathers and mothers and brothers and sisters and our children, which bind our consciences as firmly as the decrees of fate and which are as sacred and dear to us as liberty or life. If we construe the Fifteenth Amendment as it seems the minority of the committee would have us do, we almost despair of relief, and the amendment becomes, indeed, a direct and continuing menace to and blight upon our peace, happiness and prosperity, a cup of bitterness upon our lips, a bitter and nauseous pill to our stomachs, an aching and deadly pain in our hearts, and a great bar-sinister upon our lives, reducing

and degrading our proud spirits and placing us upon an artificial, enforced and unnatural political level and equality with the slave of all the ages past, the negro.

I agree with gentlemen who have preceded me, that the Fifteenth Amendment contravenes the laws of nature, the lights and teachings of history and the rules and conditions of liberty itself. Would any gentleman say that the proud eagle, the king of birds, would have accorded to him the full measure of liberty to which he is entitled if he was brought down from his giddy heights and made to sort with the snipe? Could it be contended that the lion was free when he enjoyed only the privilege and capacity of locomotion which nature has given to the hedgehog? Can it be contended that we, the proudest and best example and specimen of the world's greatest race; we, the sons of Caucasian fathers, of Saxon and Norman-French lineage, the sons of American heroes, enjoy our full measure and right of liberty and freedom when we have no more than can be enjoyed by the ebon sons of dark and benighted Africa? I tell you, gentlemen, that with existing conditions in Alabama, the Fifteenth Amendment, if construed through the glasses of the minority of the committee, operates a curtailment of our liberties. Then we crave of you, gentlemen of the minority, that you view us through the spectacles of charity when we exhibit a spirit of unfriendliness to the Fifteenth Amendment in our construction of it. We are disposed to resolve all reasonable doubts against it and in our own favor. But, leaving the moral bearings for a time and coming to the legal points involved. I wish to say, Mr. President, that I am not as entirely clear and positive in my convictions that the "soldier" and "grandfather" clauses are constitutional as I would prefer to be. At least it cannot be denied that no court has ever decided the question, and we must admit that it is close and that the argument are not all on one side of it. Further, I do not share in the sentiment which has occasionally found expression in the slightly sarcastic repartees hurled by some of the advocates of the majority report at some of the leaders of the opposition. I deeply regret that even the heat of debate should have given rise to either the sentiment or its expression, though I believe it to have been only the impulse of the passing moment in each case, and that the shades of forgetfulness should take it to their bosom and out of our memory. As for these gentlemen who believe the "grandfather" clause to be unconstitutional, we know them to be brave men and true. Many of them have already earned and are justly wearing the title of hero. When I look on the empty sleeve of my friend from Montgomery, Governor Oates, and recall the memories of the long years dating back to

my infancy, during which I have watched and admired his remarkable career; when I remember the many deeds of patriotism which his life records, and I see him here in this hall contending like the true man I know him to be for what he believes to be the right, I cannot, I will not, call his motives in question. I believe, however, that he and those holding with him are in error, and must, therefore, differ from them and oppose my vote against theirs.

Their arguments may be reduced to three propositions:

First—They say the "grandfather" clause contravenes the genius and spirit of our institutions and destroys our republican form of government.

Second—They say it violates the Fifteenth Amendment to the Federal Constitution; and

Third—That the whole of the temporary plan offered by the section is so mutually dependent, the one part upon the other, that the "grandfather" clause, which they assume to be unconstitutional, if left in the section, will render the whole section invalid; that the whole section will fall with it.

The first of the two propositions contained in the first division of their argument, viz: that the clause violates the spirit and genius of our institutions, can have no legal force whatever and may well be passed over without more than passing notice. There is no provision in the Federal Constitution compelling the States to preserve the spirit and genius of our institutions beyond the express or implied provisions of the constitution itself; and it is so clear that it does not contain any provision which by any stretch of construction could be said to protect and secure the spirit and genius of our institutions in a manner like this "grandfather" clause that it would be an idle waste of your time to attempt to demonstrate to you that it does not.

It is almost equally clear that the clause does not destroy our republican form of government. When the worst that can be is said of it, it is simply the selecting by us of a class of our citizens who shall vote and denying to other classes the right to do so. This practice is as old as the government itself, and was in full force when both the articles of confederation and the Federal Constitution were framed; and has been continued in every State of the Union ever since without ever being questioned by any one. The practice is in fact one of the bedrock principles of our form of government; and, like other well established customs is a part of the constitution, written between its lines, to remain there forever, or until removed by some amendment to it.

Does the Fifteenth Amendment remove it? Here comes the real tug of war. We know that it does not remove it gener-

ally; for we have various express decisions from the courts of last resort upholding the practice. It does seem to me that the opposition practically yield the point insofar as the constitutionality of the defense is questioned by them when they admit the "soldier" clause to be constitutional. These propositions are so firmly and thoroughly settled that they cannot be gainsaid by any one making any pretensions to being a lawyer:

First—That the right to vote is not a right or immunity, secured to the citizen by any thing in the Federal Constitution preceding the Fifteenth Amendment; but is a mere privilege which may or may not be conferred at the discretion of the government.

Second—That the right to confer upon the citizen the privilege of voting was not conceded to the general government in the Federal Constitution as originally framed, but was reserved to the States;

Third—That none of the amendments prior to the Fifteenth Amendment interfered in any way with the absolute right and power of control in the States of the matter of the right to vote.

Fourth—That the matter of the qualifications of the voters was left entirely with the States, with the single exception that the Federal Constitution adopted as is own the qualifications which each State might adopt as the qualifications of its voters; for electors and for Representatives in the lower house of Congress; and,

Fifth—That the Fifteenth Amendment did not directly confer the right to vote on any one, and did not interfere with the right of the States to fix and prescribe the qualifications of its voters absolutely at their own will, by whatever arbitrary rule they might choose, with the single exception that the right to vote should not be denied to a citizen or abridged on account of his race, color or previous condition of servitude.

The strongest argument offered by the opposition is that in which they insist that the "grandfather" clause creates a class of voters with given qualifications, and that these qualifications are such that the other classes cannot by any effort or through any possible agency attain to them. Exactly this is true of the soldier provided for. The wars, the fighting in which has qualified him where in the past. No man who did not then, can now fight in those wars. It is as impossible to become a soldier now for the first time in one of those wars as it is to become the descendants of such soldier. If the argument is made that the quality of soldier was acquired by the individual character, whereas being a descendant of

a soldier is not, we answer that our suffrage plan is prospective, to operate in future, and not retrospective, operating in the past, and there is no earthly chance for the other fellow to acquire the particular soldier quality which qualifies; so the principle remains the same.

The lines get shadowy as we follow them and are hard to keep. We must not confound morals with the law of the case. The moral right of the soldier is much stronger than of the descendant; but if the law forbids the exception alike as either, the soldier's higher moral right cannot remove the law's stern mandate.

The opposition concede the constitutionality of the soldier clause. It and the "grandfather" clause stand upon precisely the same footing in the law's eye.

But it is really no valid objection to the "grandfather" clause that it prescribes a qualification which is arbitrary, and which one class has and the others cannot acquire. This was settled beyond all question in the case already read to you in which the woman attempted to enforce her right to vote. As has been well said, she can never acquire the quality of being a man. It is only when the qualification, which may otherwise be arbitrary, operates to deny or abridge the right to vote because of the race, color or previous condition of servitude of the citizen that it becomes obnoxious to the Fifteenth Amendment.

Then proceeding by the exclusive method, we have as premises all these. The franchise is only a privilege, not a right; it can be conferred by the State only, and the Federal Government cannot confer it; and the State may prescribe any qualification or select any class it chooses, provided it does not deny the privilege to any one on account of his race, color or condition of servitude. Then the clause is not objectionable because it is arbitrary or because it creates a voting class. Does it do these and exclude the negro on account of his race, color or previous condition of servitude? We insist that it does not. To begin with, a large number may vote under the clause. Much has been said about the percentage included on the one hand and excluded on the other between the whites and the blacks. I do not believe that the respective percentages are of so much value in the argument. In my opinion, if a substantial number of each race is included in the clause that ends inquiry, and the law will be upheld, independently of the other considerations to which I wish later to call your attention.

Mr. BEDDOW: I move that the gentleman's time be extended until he can finish his speech.

Leave was granted.

Mr SOLLIE: For a long time I staggered around about this proposition, and it seemed that the whole argument ended with it. I could see no escape from the proposition that if the practical effect of the clause was to include practically all white men and exclude practically all negroes, it would fall under the Fifteenth Amendment. And I do not share in the view of some of the very able lawyers on our side which set entirely at naught the Chinese queue case and the others read by the opposition. Nor do I understand that the gentleman from Montgomery, Governor Jones, asserted or believed that these cases were conclusive as adjudications directly on the matter in hand. I think they fully understood that they were rendered on different propositions from the Fifteenth Amendment. I think they read them as being general declarations of legal principles upon kindred propositions and that by analogy of reasoning they applied to our case. I feel the force of them, and it is not enough to remove my doubts entirely to know that these decisions were made upon the Fourteenth Amendment or on the bill of rights. If the principles of construction there laid down would apply to our case it does not matter that they happened to be enunciated in a different case. I do not think they apply, however, very forcibly to the Fifteenth Amendment. But grant that the clause does exclude practically all negroes. Must it follow that they are excluded because of their race, color or previous condition of servitude? I say it does not, and if the exclusion is not on either of these accounts it would be all right to exclude every mother's son of them.

Let's review the wars. There were but few negroes in America at the time of the Revolutionary War; yet some of them fought in it, I am told. Some of them fought in each of the Indian wars, and in the war of 1812, and a large number fought in the war between the States. And it is worthy of note that the language of the "soldier" clause is, "who fought" and that the descendants clause simply requires that they shall be lawful descendants of soldiers. There is
88 nothing said about lawful enlistments; and I dare say the committee had in mind those negroes who, being body-guards of their masters, actually fought in the wars without being enlisted as soldiers. If there is doubt on that point, I should like to see it so changed as to include Governor Oates's negro, Bill, the body-guard. When the descendants of all these in all these wars are considered, who will say they do not constitute a substantial number?

Now, Mr. President, and gentlemen of the convention, assuming, for the sake of argument, that the clause does exclude practically all the negroes, I will ask you if it does so because

they are negroes or because they and their fathers did not fight in the wars? If they had fought, would the clause exclude them? Was their failure to fight due to the fact that they were negroes or to their condition of servitude; or was it due to the fact that they were not citizens, and did not owe to the Government the same duty to defend it that its citizens owed? I submit gentlemen, that we cannot know with that degree of certainty, which it is the rule for courts to demand before setting aside the solemn enactments in the organic laws of a State that the exclusion of the negro in the clause is on account of his race, color or previous condition of servitude; and that the history from which the opposition draw their conclusions does not point with unerring or even ordinary certainty to those conclusions, and that it leaves the matter shrouded in doubt.

Why there was no law, civil or military, which forbade the negro should fight if he wanted to in any of the wars mentioned. He could fight without incurring any pains or penalties or violating any law. If he did not fight, it was either his own fault entirely, or was due to the whim or caprice of his master, who might or might not allow the negro to fight, as he and the negro might agree. There was no irrevocable law or condition preventing the negro from fighting. The conditions were such that fifty or fifty thousand might have fought in each war, and the Government would have had no right to raise its voice for or against it. Furthermore, we have other races than the negro who were at one time not citizens, and whose ancestors did not fight in any of the wars, but who are themselves now citizens. Possibly a few of some of these races may be the descendants of soldiers; but hardly enough to be a substantial number. Now, let's ask ourselves whether these also are excluded on account of that race, color or previous condition of servitude. They are not negroes and were never in servitude in this country. Yet they cannot vote under the grandfather clause. Then we have a number of different races all excluded from the privilege of voting by the same clause. One race steps in and says the history of this country shows that I was a slave; and this law is bad because it excludes me on account of my race, color or previous condition of servitude. The others cannot object on the servitude score. They object on the race score. Yet all who meet the requirement in either of their races may vote. None of the white race who do not meet the requirement can vote under that clause. Many of our race probably cannot trace themselves to a soldier ancestry. Certainly, a substantial number of us cannot. We finish the count by finding substantial numbers of the negroes included and substantial numbers of the whites excluded, and the other races included and excluded in varying proportions, depending upon the number of them naturalized and fighting in the wars.

Now, Mr. President, in the face of all this, I submit that the clause does not disfranchise the negro on account of his race, color or previous condition of servitude; that it prescribes a qualification which is lawful, and that it will stand the test of the courts.

But they say it establishes an hereditary voting privilege to be transmitted from father to son. How many generations will come and go between now and January 1st, 1903? The law will barely be enacted and promulgated before it dies of its own terms. The gentleman from Mobile, Mr. Smith, so fully answered this objection I will not attempt to further answer it. Now, as to the mutual dependency of the several clauses or the section. A State constitution stands related to the Federal Constitution as a State statute does to a State constitution; and the rules of construction are practically the same. The rule is that if an unconstitutional clause is found in an enactment, the court will examine and ascertain, first, whether or not the enactment would have been made without the objectionable clause; and, second, whether it can be executed with the bad clause stricken. If the enactment would have been made without the presence of the objectionable clause, and if, after striking it, the remainder can be executed, the bad clause is considered as stricken and the remainder stands. If there were no "grandfather" clause to be had, this convention would undoubtedly enact this section without it; and there can be no doubt that the section could be executed as well without as with the clause in it. Then, where is the foundation for the fear which our learned friend from Opelika, General Harrison, apprehends for the remainder of the section? We think there is none.

Leaving the law of the case and coming to the policy of the clauses, in my humble judgment the "soldier" and "grandfather" clauses of this section will be the brightest jewels in the crown of honor which we hope to see the people place upon the constitution we are making when we send it back to them for their ratification. I do not see how we ever could keep the pledge we have made in specific terms without it. We have some white men in our midst who have not good moral character and who do not understand the principles of our republican form of government, and who have not been convicted of infamous crime. But with the good character clause and with the soldier and the grandfather clauses in our temporary plan I think we will get them all who are not idiots or insane. I should pause here to pay a tribute of respect to the labors of the committee who have brought in the suffrage plan, at least as to those portions of it which I agreed to; but my time is shortening, and I have already detained you over long.

Mr. President, there has been a lot of discussion here upon

the registration provisions in the article. I am not quite sure that that question comes within the legitimate scope of argument on this section; and if I were not afraid that those who have made the arguments have done so knowing that the arguments now being made upon it are to be final, I would not follow them into it. But it is possible that it is proper here in connection with the character and understanding clause of this section. So I will notice the registrars as I pass. In itself the character and understanding clause is certainly unobjectionable. By the plainest and most palpable rules of right, a man whose blood in some of its generations has not been shed for his country and none of whose generations has ever fought for it, ought not to be permitted to vote unless he has a good character and understands the duties of a citizen under government in which he lives.

But touching the registrars; I am not so sanguine and hopeful upon that matter. But I do not agree to the censure of the "Black Belt," indulged by some. This much is sure: The character and understanding clause will give to the registrars a wide range of discretion. Their office will be principally political; and it is not changed by the mere fact that judicial powers are given to them. Great political pressure may be brought to bear upon them. And if they do not give to their work a partisan coloring, it will be because the temptation is not sufficiently strong or because their characters are such that they cannot be led astray.

Political, like other reforms is the fruit of a changed condition of the people's minds. It is not, as a rule, effected solely by legislative enactments. Fraud has become so common in practice among us that I fear we will not find ourselves able to keep from the beginning the letter and the spirit of our reformed laws. To the extent that we get registrars who cannot do this, we run the risk of being injured by them. And should it turn out that instead of doing their best, they should do the worst they could, God knows we would be better off by far with the negro at large as we have him now, than to find ourselves under the dominion of a lot of villainous registrars. I trust then when we come to that part of the article, the convention will place around it more safeguards than it now has.

The temporary plan is too short. Our youths cannot get ready in eighteen months. They need more time to get ready. It is utterly impossible for the people of a State to propose in eighteen months for the change contemplated. If the limit is left as it is, we will see many boys coming of age who are of good character, and who understand the principles of our government and are as capable of voting as any one, but who cannot vote because they have not the requisite education or property qualification. The fact is, that I have but little respect

for these qualifications when applied to a white man; and, but for the negro, I would never put my name to any constitution placing on the white man's right to vote any such qualification. The white man was always qualified to vote. He inherits his qualities. Deprive him of education and of property, and place him by the side of any other man on earth, and he would soon have the property and his own fair share of education. It is the intrinsic force and intelligence within him that qualifies him. He is the ripened product of thousands of years of good breeding and refinement, having to begin with the highest and best qualities given to man. The white man of America has ancestry which alone vouchsafes his eminent fitness for the exercise of the franchise. The meanest white man in the State is within the saving clause; for, at some time, he had a worthy sire; and his children will look back, not to him alone, but to the great mass of their ancestry, and from it, catch up the inspiration and pride of their race, and move on to honorable and useful life. The white sons of America have in their veins the celestial ichor of the immortals, and their pride and worth cannot permanently die. Let's extend the temporary plan at least two years longer.

Mr. BEDDOW: I desire to offer a short resolution.

The resolution was read as follows:

"Resolved that 5,000 copies of the speach just delivered be ordered printed for distribution."

The resolution was referred to the Committee on Schedules, etc.

Mr. MAXWELL (Tallapoosa): Mr. President, I do not propose to occupy as much time as the distinguished gentleman who has just taken his seat, and it may be that I will not interest you as he did. In fact, I beg your pardon for presuming to say anything at this late stage of the debate upon a question which has been so fully and so thoroughly discussed by gentlemen of so much more ability to discuss it than I have. I do not hope by anything I shall say to change the mind of any member of this convention, when he comes to vote. I simply want to record my position in favor of the majority report of the Committee on Suffrage and Elections. (Applause.) I want to tell the members of the convention what one of your humble lay members thinks of the report, which involves in his conception a question, the most profound and the most grave which has confronted the people of Alabama since the days of 1861 when assembled in this hall, they discussed and passed upon that great question of secession, the result of which has brought about the conditions that bring us together today. I have studied this report, Mr. President, as best I could. I have listened intently and interestedly to the great debates and the logical arguments of those who have preceded me. I have

been instructed and entertained. I been have informed. I have been helped to arrive at some conclusions upon the subject. I have thought, Mr. President, what effect the provisions of this report, if adopted by the convention and ratified by the people, would have on our State politically, morally, socially, educationally—and I have looked at it from an economic standpoint, and from no point of view do I see much harm in it. Indeed, there is such a preponderance of good in it that if there be objectionable features and evil in it they are lost sight of and are so overshawod and swallowed up in the good, that it is beyond my kith and ken to discover it. I favor the report as made by the committee. Now what are some of the commendable features of this report? It proposes, Mr. President, to purify our politics, by eliminating from the electorate the vicious, the ignorant and the incompetent. It does not propose to set up any social status in our State that has not always existed. It holds up and offers to our people higher aims and loftier aspirations which lead them on to nobler and greater attainments in life. It wisely provides under the permanent plan certain qualifications for suffrage which tend to uplift and elevate humanity. It provides for a more intelligent electorate, and it does this without imposing burdens that are onerous and difficult of attainment by the humblest individual who is not an idiot or insane. It provides further for better economic conditions by requiring greater intelligence and greater virtue on the part of the elector, thereby making him a greater wealth producer when he shall have complied with the conditions precedent to voting, for it is a well known fact that the wealth producing power of a State is in direct proportion to the intelligence of its people, and this report holds out an inducement for the acquirement of some education and intelligence. But, Mr. President, as strongly as these features commend themselves to my judgment and urge my endorsement of the main features of this article, there is another stronger than all of these and that is that the provisions of this report is a complete, and literal fulfillment of our pledge to the people that this convention would disfranchise no white man. I believe in the fulfillment of promises. I believe a full and perfect understanding ought to be had in every transaction in life, that a man ought to say what he will do and then do what he says. There can be no misunderstanding of such a contract. We went before the people of Alabama and asked permission to hold this convention with the express understanding that we would frame and submit to them an article on suffrage which would insure white supremacy in the State, and which
89 would not be in violation of the Federal Constitution and which would disfranchise no white man un-

der any of its provisions except for infamous crime. I admit, sir, that at first I in common with others here, felt shaky about our ability to do this and at the same time get the game we came for; but our wise and patriotic committee have solved this difficult and knotty problem and they have done it in a way that commends itself to our heads and our hearts and it will commend itself to the judgment of our people when it is presented to them and they fully understand its workings and its effect. It is said sir, to be the wisest provision on the subject in any of the new constitutions. It stands as a monument to the wisdom and patriotism of the committee and they are entitled to the lasting gratitude of our people for their able solution of it, and I believe they will receive it expressed in the adoption of the report by the convention and its overwhelming ratification at the polls. Now under its wise and patriotic provisions, Mr. President, the old soldier, whether he followed the Immortal Lee in surrender at Appomattox, and gave up all he had saved, his good name, his honor and the undying love of a grateful though conquered people, or whether he followed the silent and persevering Grant from Appomattox back to Washington under victorious banners to receive the plaudits of a Union restored; or whether with Scott he marched through the hot sands of Mexico and planted his colors upon the capitol of that city or whether with the chivalrous Roosevelt he stormed the heights of San Juan; whether he be white or black, he and his lawful descendants, as a recognition of his patriotism, are allowed to vote without any other qualifications. This practically takes in all the white voters, but if perchance a few are left out under this qualification, they can come in under the good character and understanding clause; and the pledge is literally kept that no white man shall be disfranchised. Now what about violating the Federal Constitution? Well, Mr. President, some of our greatest and best lawyers here with a confidence equal almost to absolute certainty have said there is no violation, while others of equal eminence and learning have said they have grave doubts on the subject. Those of us who are not learned in the law have looked for the law of the case to the great batch of lawyers of this convention and we have looked to them not as leaders of one side or the other who under ordinary circumstances might be prompted by their ambition to see their side of the case win out and be influenced and biased in that respect, but we have looked to them as patriots who love their country and its institutions far above their own ambition and their own selfish interests, and we find that they have disagreed. So at last we are to determine this question for ourselves. Mr. President, I believe, in the light of

all the evidence I have heard, and after having weighed it as best I could in the light of my own conscience and my own judgment, there is no violation of the Federal Constiution in any of the provisions of the report. Now let us look at the question face to face with our own conscience. If it approves or disapproves, let us act accordingly. It is the highest court to which we can appeal. I do not want any man to do violence to his conscience by voting for the article if he believes that in so doing, he would violate the oath he took when he was sworn in as a member of this convention. It is a matter between each of us and our God, and each must decide for himself. As for me, I am clear on the subject and I shall vote for the report. Now what about the negro under the provision of this suffrage report? I do not feel that I am especially, more than others, called upon to plead his cause here though he has not a better friend upon the floor of this convention than I am. We are all his friends, I must say we are all specially fond of him—in his place. At home, where I am well known among them, I am regarded as good authority on every subject under the sun except one, and that is politics. I am regarded as an honest man every day in the year except one, and that is election day. I may argue and reason about politics, but unless the argument has the ring of the silver dollar in it, it is no go. Will any of them be allowed to vote? Yes, it is estimated that 25 or 30 per cent. may qualify under the provisions of this article. They are put to the same tests that the white man is, and I am glad of that, Mr. President. I am not one of those who want to disfranchise the negro simply because he is a negro. I base my reason for it upon what I conceive to be a higher plane than that. I cannot forget that he did not come upon our shores from his native land of his own volition, but that he came here a slave, a savage slave no doubt, under the providence of God, to prepare him for civilization and to school him for a higher position among men. I cannot forget his faithfulness as a slave and his loyalty to his master's family while he was away fighting the battles of his country to perpetuate him in slavery. I recognize him as a man who ought to have justice accorded to him in the courts, and who ought to have a fair and impartial trial when his life, his liberty, or his property is at stake. I believe he ought to be made to comply with his contract, and that those who contract with him should be made to do likewise. I believe that he should have justice before the law and that no law should be enacted that discriminates against him simply because he is a negro. I would not disfranchise any of them who can stand the tests laid down in this article.

But while I recognize the negro's legal and human rights as being equal to ours, I have never suffered myself for a moment to believe that he is the moral, social or intellectual equal of the white man. He is our inferior in these respects and no amount of legislation and cultivation will ever make him otherwise. I look upon him as the weaker element in our social and political structure and I believe it becomes us as the stronger element to see that such restraints are thrown around him as will curb him and prevent him from hurting himself as well as for our own protection. I would disfranchise the ignorant and vicious and incompetent among them for their own good and for the public good, but I would hold out to him, as does this article, the hope that he may, by industry, good character, economy and application, obtain the honors of the electorate. I would not cut him off from hope for the future, for hope once dead in the human breast makes the man the brute. I would not set up for him a higher standard for excellence in order to exercise the franchise than I would set up for the white man, nor would I lower it. I would let it stand as the majority of the committee have reported it and I would enact just laws for its enforcement. These, Mr. President, are some of the conclusions I have come to after a thoughtful consideration of the majority report. Its main provisions have my approval and when the time comes I shall register my vote that way. I do not wish to say any more. I thank the convention for their courtesy.

Mr. ASHCRAFT: Mr. President, and gentlemen of the convention, it is perfectly apparent that we have degenerated into mere tolerance of speech-making. The keen interest is gone. At the opening of this debate I really desired to submit some arguments to the convention. Those arguments have all been made, very much more ably than I could have made them, and therefore I cannot make you the speech that I had intended. It, therefore, seems to me that about the most that I can do is, in a certain sense, to inaugurate a set of ratification speeches, such as we ought to have in the morning under the ten minute rule, which will probably be adopted, and I trust that I may have the same good luck in getting to my subject that a young friend of mine once had. He had been going to see his girl for some time and he was quite timid; he had something which he longed very much to say to her, and which he had been unable to say. The old people had gotten considerably worried, almost as much worried as this convention is with speech making, in furnishing lamp and coal for the late hours at night. The mother and father had begun to complain at Mary for letting John stay so long, and had really begun to be impatient. One night John was

there. It was getting a little late, but in some way they found themselves seated together on the divan and one tender hand had found its way into the clasp of a good strong hand, and just at that inauspicious moment, a sharp voice from the head of the stairs called out, "Mary, is that fellow there yet?" Mary, without withdrawing her hand from the firm, strong grasp, sweetly answered: "No, ma, he's no there yet, but he's getting there." (Laughter.) Now, I want to thank the gentlemen who have spoken and are here for staying to hear us speak this evening. We appreciate very much that a number of those who have spoken are here. Some of those who have spoken are not here, but I presume that they judged our speeches by their own, and determined there was not much to be lost if they absented themselves. (Laughter.)

You have all heard the story of the old farmer who was walking along the road and suddenly met a great big bull dog. The dog came lunging at him, growling and showing his teeth. The farmer had a pitchfork in his hand and stabbed it into the dog. Just at that moment the owner came rushing up and said, "What did you kill my dog for?" He answered, "He was coming at me with an evil intent." "Why didn't you hit him with the other end of the fork?" "Why didn't he come at me with the other end?" Now, the way the minority of the committee come at these three temporary qualification clauses, reminds me somewhat of that story, for they bring these three propositions to us the wrong end first and the distinguished gentleman from Wilcox fell into the same trap. We say when a man comes up to vote that the first question that is asked him is, are you an old soldier? If he says no, then they will say, are you the son of a soldier? If he says no, then are you a man of character who understands the duties of citizenship? That is the way we put it but they say the question will be, are you a man of good character and when the man says no, they will ask, well do you understand the duties of citizenship under a republican form of government? and when he answers no, they will ask him then, are you an old soldier? So they seek to make it appear that the plan is designated to let in soldiers and their sons who are rascals or scoundrels.

Now, gentlemen, that argument proceeds from a wrong conception of what really constitutes the true electorate, and the fact that we can only set apart such an electorate approximately, and not man by man. As I understand the theory of our Government, it is that every man within this domain, however humble he may be, or however poor he may be, who may reasonably be expected to discharge the privileges of

an elector unselfishly and patriotically, ought to be clothed with that privilege. An electorate less than this would be an oligarchy and against the theory of free government. In other words, we are here trying to set apart a class of men who may reasonably be expected to exercise the electoral franchise honestly and unselfishly, and to inaugurate plans which will give the very highest percentage of that class, and the lowest percentage of those who will exercise it otherwise. Now, if you let in the best men and the best men only, you will let in some evil; and if you turn out the w rst men, you will turn out some good, for I never yet have seen any man in whom there was no evil, and, I thank God, I have never seen any man yet in whom there was not some good. So then our plan must be one which will bring in the highest average of patriotism, and the lowest average of selfishness. When you apply that rule and ask yourself the question, "What class of men, first and above all others, may be reasonably expected to exercise the electoral franchise honestly?" the experience of mankind from Sparta down to the present day, and the enlightened judgment of the world, answers, "Your soldiers." They know her history and her purposes, and rather than see that history sullied or those purposes thwarted, they have been w lling to endure every form of hardship and distress, even death itself. Surely, even though there should be some bad soldiers, this class will present to us the very highest average of patriotism, and the very lowest average of selfishness.

When you have secured that class, the question is, can we further enlarge the electorate? Is there any other class that we can bring into the exercise of the franchise? I stand here, gentlemen, to repudiate the doctrine that any Confederate soldier's son wants to come into that franchise because he is his father's son. I happen to be the son of a private Confederate soldier. I have been hurt and injured by the proposition argued and pleaded upon this floor that they will be admitted to the electorate as a matter of pity and in consideration of the deeds of their fathers. I know, gentlemen of the convention, that the Confederate soldiers fought the battles of their country. They fought them amid the blare of the trumpet, waving flags and roaring cannons. They fought the battles of death and defeat. Whey they returned they found their homes despoiled, their fields grown up, and their ditches filled. They found too strong young hands that helped to fight another fight—a fight against poverty; a fight that lacked all the pomp and splendor of war. That fight was made amid funeral dirges and in the shadow of widows' weeds. How about those sons who fought that fight? Ask your ex-

periences like you do about the soldier. I appeal to your experience and observation.

By some strange fatuity of the Caucasian race, the great body of that race is crowded into the hills and the mountains of your State. If you doubt how that battle has been fought by the sons of Confederate soldiers, I ask you to go where the ditches were filled; go where the briers grew in the corners, and the fences were rotted down. See there now the vine-clad hills; see the beautiful valleys. (Applause.) See the growing cities, hear the hum of the factories, and ask yourself who it is
90 that fought, not the battle of defeat and death, but the battle of victory and life. (Applause.) If, as the sons of Confederate soldiers, we have proven ourselves worthy; if we have demonstrated that as a class we may safely be trusted to patriotically exercise the privilege of electors, then we ask you to let us in; if we have not proven ourselves worthy of it although we belong to a race which subjugated the forests, tamed or drove out the wild beasts, built cities, built schools, churches and homes, and multiplied opportunities for education; although the blood of heroes and martyrs runs in our veins, if we have not proven ourselves worthy and cannot come in on our own merit, then make us stand another examination. Stand us over, if you please, with the foreigner who has kissed the foot of monarchs. Stand us over, if you want to with that race which was subjected by the forests, and in whose veins runs the blood of cannibals and fetish worshippers.

If you are still unconvinced of our prtaiotism as a class, then examine us along with that race which learned the arts of civilization only when chained in slavery; but, gentlemen of the convention, we trust that we have not been weighed in the balance and found wanting.

You have been told the story of the brave negro that fought by that one-armed hero's side (Mr. Oates); you have heard the pathetic story told by the distinguished chairman of the Suffrage Committee (Mr. Coleman of Greene), of how the faithful negroes protected his home. You have heard from our distinguished president the story of the noble young Confederate soldier who snatched up the flag and carried it forward into the thickest of the fight; but, today, if I were an orator, if I were clothed with the power of sweet speech, I would tell you of the story of the little Confederate boys, their mothers' milk barely out of their blood, their bones yet in the gristle, who followed the plow and pulled the briar hook. (Applause.)

Gentlemen, I know them. I have seen their hands stiffened and cracked and bleeding from exposure and toil, as they fought the long winters through in the lonely places. Gentle-

men, can you read only those deeds of courage written in lamp-black and lightning? It may be that in the years that are to come, their victories will not be sung, but you, gentlemen, are here today enjoying the fruits of their victory; and, year by year, we shall demonstrate to you, that we constitute a class worthy to go down by the side of our fathers on the electorate. (Applause.)

Gentlemen of the convention, if you have decided that soldiers form a class that will furnish you a high average of patriotism and a low average of selfishness, and if you have concluded that the sons of soldiers will also furnish you a high average of patriotism and a low average of selfishness, it may be, and I believe that we can still enlarge the electorate.. Again I ask what are the experiences of mankind. Others may not possess the high qualifications to which I have already referred. The man who is of good character, who understands the duties of citizenship, under a republican form of government, will also furnish you a high average of patriotism for the faithful discharge of duty, and a low average of selfishness. But remember that class must be selected, and its merits must be passed upon by a board of registrars. This board of registrars will be made up of men, and you will not get a perfect class even for such a board. The best board of registrars that you can provide will bring in some bad men, and will bring in some good men, but according to our experience and observation, is there any other plan by which we can hope to enlarge the class of those persons who will have the highest average of patriotism and the lowest average of selfishness?

My good friend from Russell (Mr. Banks) asked with a great deal of real pathos if we were going to deal with the negro in such a way as to degrade him. Gentlemen of the convention, those who say that the purposes of this convention and the desire of the white people of Alabama is to disfranchise the negro, do violence to the real definition of terms and injustice to a brave and generous people. It is unfortunate; it is regretable, that the term negro has, in a certain sense, become synonymous with selfishness and self-gratification, and it is aimed at the uncontrollable desire to gratify appetite. If the negro were as patriotic as the white man; if the negro had shown as high an average of noble qualities as the white man, we would have no convention here today. Those stories which you heard from the distinguished gentlemen moved us all to tears. I saw strong, brave men in this convention shedding tears as those instances were cited, and I say to you, that a people who are thus moved to reverence the noble actions of the negro can feel no unkindness to him. We are here to do

the negro good, just as we are to do the white man good. That is our patriotic purpose here. It is unfortunate that we sometimes use rash words and that we sometimes say one thing when we mean another. But the fact is, the great body of the people of Alabama are willing to allow every negro man who has demonstrated by his course of conduct that he has a high sense of patriotism, to exercise the elective franchise. Our purpose here is to exclude from our electorate only those vicious, ruinous and awful conditions that we have been subject to, and to say that the right to vote shall be given to every man who may be expected to do so honestly. Then how can that injure the negro? Suppose, as some of our friends say, it will let in some bad fellows to let the soldiers' sons vote. I ask is it going to injure the negro not to let in bad negroes also? How can it injure a negro man to say to him, if you be honest, if you be virtuous, you may come in and share the privileges of a glorious free country with us. Does that invite him to evil? Does that invite him to degradation? Does it not offer him an opportunity and an invitation which never yet has been offered to him before? Today he is disfranchised. The best of his race have no voice in our government. Tomorrow when this constitution has been ratified by the people of Alabama, the best of his race will have a voice and he will have an opportunity to place himself along by the side of patriots and to be loved just as the soldier who fought with the one-armed hero is loved. He will learn to know his place and fill it well. No man yet on this earth has known his place and filled it well who was not loved and honored and respected.

Gentlemen of the convention, I thank you for your attention. (Prolonged applause.)

Mr. ROGERS (Lowndes): Mr. President, the Committee on Suffrage and Elections consists of twenty-five members, twenty-one of whom are able lawyers learned in the law and four others of the number who are not learned in the law. Four of these able lawyers say that the grandfather clause is unconstitutional. The other seventeen able lawyers say it is constitutional. The legal features have been ably explained by both sides. Taking counsel from the multitude of wisdom and believing that it is not a proper thing to ask a man to sign his own death warrant, for we have got to submit this constitution to these people who already vote, I heartily favor its adoption, as it will help to accomplish the purposes for which this convention was called.

Coming from the county of Lowndes, where there are 4,762 whites and 30,891 blacks, or 7 to 1, or more negroes to the square mile than in darkest Africa, I am heartily in favor of a measure that will bring to our relief 20,000 white votes in the

State for our redemption from ultimate ruin. The majority report embodies the best and most practicable ordinance and I trust that it will be adopted. History repeats itself. I have seen in this historic hall thirty negroes at one time, members of the legislature, selling their votes for a drink of whisky or a mule, and enacting laws for us that inflicted millions of dollars of indebtedness on the State of Alabama and which we are now paying and will have to continue to pay for fifty years more as we have for the last twenty-five years. Under the present constitution they can come again. All they need is courage and leadership, all that we have to prevent it is the indomitable pluck of Anglo-Saxon manhood. No white man who knows why this clause was adopted is going to offer sentimental objections to it, they are too level headed; and they are in favor of white supremacy as far as the Fifteenth Amendment will permit them to go. For a third of a century the negro has voted in Alabama and always votes solidly against the interests and welfare of the State. I would rather have a military despotism than to be ruled by negroes and barbarism.

Alabama has 51,540 square miles, contains 1,001,152 whites and 827,307 blacks; in thirteen central counties of the State, in one of which this Capitol is situated, embracing 9,786 square miles, or one-fifth of the area of the State, the most productive portion of it, there dwell 373,311 negroes, and 100,000 whites, or three-sevenths of the black population, and one-tenth of the white population; 444,000 blacks and 900,000 whites (in round numbers) live in the other fifty-three counties of the State containing 41,754 square miles. In eight of these fifty-three counties the negro holds the balance of power and in only five counties he cuts no figure. Consider these facts and see what a grip he has on us. Restrain him and treat him kindly and justly as God intended that he should be, he becomes a useful citizen. Remove restraint and he reverts to barbarism and lust.

We have been told that white supremacy in Alabama is assured. White supremacy, Mr. President (which means the rule of intelligence) prevails in the Black Belt of Alabama by methods repugnant to our feelings and justified only by the intolerable alternative of a tame submission to the rule of an inferior servile race. Adopt this suffrage plan and peace and order will be assured under conditions fixed by law, and racial conditions will adjust themselves like the law of gravity or of water seeking its level.

In my judgment this is the last opportunity that Alabama will ever have to redeem herself by force of law from the curse inflicted on us by malice and hatred. A returning sense of justice seems to pervade the Union and now let us remember

that "there is a tide in the affairs of men, which, taken at the flood, leads on to fortune." Let us turn from all impracticable schemes and act wisely and pass this measure and carry it to the people and explain it to them from the mountains to the sea and our beloved State will be redeemed.

The PRESIDENT pro tem: The gentleman from Barbour, Mr. Williams.

Mr. WILLIAMS (Barbour): Mr. President, there is some mistake about that. I did not know I was on the list. I might say I was anxious to get there at one time, but I never landed, and I will not disturb the convention with any remarks upon the subject at this time.

Mr. HOWZE: I move that the convention do now adjourn.

Leave of absence was granted Mr. Harrison (Lee) for today.

Upon a vote being taken the convention adjourned.

Official Report of the Proceedings of the Constitutional Convention of Alabama.

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Fifty-eighth Day.

MONTGOMERY, ALA., TUESDAY, *July* 30, 1901.

The convention met pursuant to adjournment, was called to order by the president, and opened with prayer.

The PRESIDENT: The special order this morning will be the consideration of the Committee on Suffrage and Elections.

Mr. SENTELL: Mr. President and gentlemen of the convention, I did not intend to make any remarks on this subject, and if I had intended to make any lengthy remarks I would not do so now since the subject has been so thoroughly discussed from every standpoint, but as this is one of the most important subjects with which we have to deal, and as it is the one about which the people we represent are mostly interested, I feel it would be my duty not only to vote upon the question, but to express my views upon it as well. As I said, in the minds of the people, all other questions considered by this convention fade into mere minor matters compared with the great question of suffrage and election. We were elected and sent here almost solely for the purpose of settling this one great question, and as there have been but few speeches upon this question from members representing that section of the State from which I came, it might not be improper for me to say something as coming from what is known as the white counties of the State, or the Piney Woods of the State. Those counties are largely white counties, and they are largely in agriculture, but they are intensely interested in this great question of suffrage and elections, because the negro in that section

has become a menace to good government. He has become a drug upon the market, as was ably said by one of the gentlemen upon this floor the other day; it is a question in general election of buying the negro vote in our section. Well, now, we want relief, and we must have relief from that condition of affairs. I believe that the majority report of the committee solves this question. In my judgment it is the very best solution of this question that could be gotten up, and while there are some features of it that I do not entirely agree with, I believe, that in the main it is the solution of the question. That it will give what we want in the white counties, that it will give what the people in the Black Belt want, and will also settle the question in the hill counties of the State.

Now I shall not undertake to discuss nor to prove the constitutionality of this act, as was so ably and unanswerably done by the distinguished president of this convention, and other members on the floor sufficient for me to say that I believe that it is constitutional. That I am satisfied on that question, because it is well settled that we are not forbidden to disfranchise the negro or any one else, upon any other ground except upon the ground of race, color and previous condition of servitude, and we are not disfranchising him upon this ground in this act, but we are disfranchising them because they are not fit to vote, and I want to say here that we do not desire to disfranchise the negro or anybody else, upon any ground of race, color or previous condition, but we want to disfranchise all who are incapable of exercising the power to vote. Nor shall I undertake, gentlemen of the convention, to prove the constitutionality of this act by the laws of nature, as was so satisfactorily done by the distinguished gentleman from Jefferson, but I want to say upon this question, that the laws of nature have a great deal to do with the solution of this question, and that we will be willing to undertake here to settle it by the laws of nature, that we will settle it rightly. These great laws have demonstrated the fact that the white man is the superior, and that the white man is the only race that has ever shown the capacity to govern himself and the capacity to govern others. Now it is a fact that the negro as a race, has never shown this capacity, and I am sorry to say that the little education that he has gotten does not help him along this line. It is fact and a deplorable fact, so far as experience in our section goes, that the educated negro is the worst that we have to deal with. It seems that his education does not benefit him along this line. There is another question that I want to mention just here. Does the majority report on suffrage and elections meet the wishes of the people who sent us here? In my judgment it does. We are under one sacred pledge to the white people of this State,

and that is that we will disfranchise no white man. Now does this report carry out that pledge? I claim that it does. For sure no white man will be deprived of the right to vote under this report. Now there is a temporary plan and a permanent plan. The temporary plan is to last until 1903, and then the permanent plan comes in. Under the temporary plan, the question of property qualifications and the question of educational qualifications cut no figure at all. It is a question whether you can vote under the provisions laid down under this section that we are now considering. Old soldiers in any of the wars can vote regardless of what other qualifications they have, then those who are sons or descendants of old soldiers can vote regardless of other qualifications, and if they cannot come in under any of these, they come in under the next subdivision, which is good character, and an intelligent understanding of republican form of government. So that lets in every white man, and if carried out properly and according to the intentions, no doubt it will eliminate all of that element—the ignorant class of voters which now give trouble. So I say this majority report does solve this question, and it does give to our people what they want, along this line. Mr. President, I do not care to carry into this discussion any more of the race question than is absolutely necessary, but it necessarily comes into it to some extent, and what I shall say in regard to the race question and to the races, I mention only incidentally, but it is a fact, that it is not education that gives a man the capacity to vote, correctly and rightly, and it is not the ownership of property that gives a man the right to vote intelligently. It is the capacity to understand the right use of the ballot, it is the capacity for self-government and the capacity to govern others. Now the negro himself will be a great deal better off, and will fare a great deal better in this country under the intelligent rule of the white man that he would if he were permitted to exercise any control in that government himself, because the white man as I said before, and especially the higher class of the white race, the Anglo-Saxon race, is the only race that has ever shown any capacity for self-government, and that is shown by the fact that wherever you place these people, whether few or in large numbers, they at once begin to improve their conditions, they at once begin to take in the surrounding circumstances, and to better their condition, and to bring law and order out of confusion and disorder. It is a race instinct, it is a race inclination and they always exercise that wherever they are. On the contrary, the negro has never shown such capacity, he has never exercised it, and I am sure never will. When you cut him aloose, from the friendly influences of the white man, he invariably goes backward. It is not his race capacity

or inclination to build up and improve his condition. So I say they will be better satisfied, they will be better contented, when they once understand that the white man is the ruling power in this country, that he is exercising that power exclusively. Mr. President, it was said a few days ago by some gentleman on this floor, that the white people owned the lands of the State. That they owned the railroads of this State, that they owned the store houses and mills and the factories and they hold all the offices, and he might have added with consistency "and the white people are going to do the voting in this State." Mr. President, there is no need of any confusion on this question. They might as well look the matter square in the face. I for one say, and I believe I represent my people, when I say it, that the negro has not the capacity for exercising any control in the government of this country, because the power to vote is the power to control. The use of the ballot is one of the greatest and most sacred powers exercised by any citizen of this country. If we allow this class to vote, then we allow them that far to govern in this country, and as I said, I do not believe that the negro has the capacity for self-government, that he has a capacity for governing any one else, and ought not to vote at all, but under the Fifteenth Amendment, it would be impossible for us to exclude the entire race, so we have to respect, to some extent at least, the Fifteenth Amendment, but I cannot regard the Fifteenth Amendmen as was done by one gentleman upon this floor a few days ago, who pronounced it a jewel. I prefer, Mr. President, to term it an abominable crime, because it was a crime against the civilization of the age and against the white people of the South. It originated in prejudice, and the sole purpose of it at that time was to humiliate our beloved southern people who were already crushed under the iron heel of war, and I shall never respect such an amendment though we may be forced to obey it in the law. Now, Mr. President, as I said, the negro has his place, and the white man has his in this great age, and there is no need of any conflict, no need of any confusion; the white man is destined to rule, and he will rule; he will make the laws, he will execute the law, and he will do justice not only to himself, but to the inferior race as well. In this great industrial age, and when there are thousands of acres of land untilled, cities to be built, inexhaustible stores of riches lying under ground, that have never been touched—there are constantly being developed new powers of invention and forces of nature which must be applied to the development of the great civilization which we now enjoy. In this great industrial development, the negro has plenty of room and plenty of space for the full exercise of all the powers and all the capacity that he has, and it has been shown and proved that in the exercise

of his powers and his capacities in this great industrial world he has attained the best results, and there is room for him there. He may remain among us in peace, in prosperity and in happiness. He can acquire property, he can enjoy his rights here as a citizen, and live peaceably and if he does well he will be applauded and respected by his superior, the white man, and if he does ill, why he will suffer the consequences. Now, Mr. President, as I said, I don't care to detain the convention long; I only want to express my views upon the question, and I say now the question is before us, we are called upon to settle it, and not only the people of the United States and of the civilized world are watching the settlement of this question, and to see what the constitutional convention of Alabama will do with this great question. In view of that fact the great responsibility rests upon us to settle it rightly, and to settle it justly. I believe that we are capable of doing so. The people to whom we belong, the race to which we belong have solved every question that has been presented to them not only solved it, but solved it justly to themselves and justly to their inferiors. Gentlemen, I believe we will solve this question directly, and I believe the adoption of that majority report reaches that conclusion and that solution. Now the question is before us, and as the votes draw nigh let us settle it, and settle it rightly, and forever.

Mr. Watts took the chair.

Mr. MURPHREE (Pike): I have committed some reasons for the vote that I shall give here to paper, and I ask that it be included in the stenographic report.

The PRESIDENT pro tem: I understand the gentleman does not care to have it read.

Mr. MURPHREE: No, sir; it is just an argument of mine.

The PRESIDENT pro tem: Do you want it read?

Mr. MURPHREE: I don't care whether it is read or not.

Mr. HEFLIN (Chambers): I move that it be included in the stenographic report.

Mr. MALONE: I move that it be read.

Mr. MURPHREE: I don't object to its being read.

The PRESIDENT pro tem: The question is upon the motion of the gentleman from Chambers that this paper be included in the stenographic report.

Mr. MALONE: It will take but a few minutes to read his remarks, and the gentleman's voice is weak, I move that it be read by the clerk.

Mr. HEFLIN: If I understood the gentleman's request, it was that it be included in the stenographic report.

Mr. MURPHREE: Yes, sir, that was my purpose, but I have no objection to its being read.

Mr. HEFLIN: I accept the amendment, Mr. President.

Upon a vote the motion was carried.

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Mr. MURPHREE: I wish to submit the following as some of the reason why I shall support the minority report.

If there is any one thing which this convention should regard the most important it is that the provisions of the constitution we are now about to adopt on the suffrage question should be such as will stand the test of the courts. I believe it is conceded that the majority report could not be successfully attacked, and that the State and Federal courts would declare all its provisions, save one, not in conflict with the Constitution of the United States.

As regards the constitutionality of the second subdivision of section four, familiarly known as the grandfather clause, there exists grave doubts, in the minds of some, as to its constitutionality. These doubts are not the result of hallucination, but on the contrary are engendered and supported by the opinions of many of our most learned men in the law, not only here in this convention, but elsewhere in the southern States. The minority report is signed by four of our number, who are known for their legal ability, who give it as their opinion that said provision is violative of the Fifteenth Amendment to the Federal Constitution. Ex-Governor Thomas G. Jones, who is acknowledged to be one of the best constitutional lawyers in the State says the same thing. Senators Morgan and Pettus are of the same opinion, and many others of our ablest men of the South agree with them on this point.

As the minority report truthfully says, that by adopting this provision we invite an attack upon our suffrage plan through the courts, which may declare it void, and also give Congress an opportunity to reduce our representation in the lower House, and our vote in the electoral college. The majority of the committee seem to have some doubts as to the validity of the scheme they propose, which is ma[illegible]nifest by the adoption of Section 19, which provides that if any section of the article should become inoperative and void by reason of the decision of any court of competent jurisdiction the Legislature might remedy the defect caused by such decision. I understood Mr. Smith, of Mobile, in his able address in support of the majority report, to say that the grandfather clause was unnecessary, as the other provisions would effect the purpose desired without it.

It does seem to me that it is unwise for this convention to incorporate in our organic law a provision so uncertain and doubtful as to its constitutionality and thereby hazard the success of our suffrage plan. If perchance the courts should declare our work unconstitutional then the people's money, say $70,000, will have been spent and no good accomplished in that of regulating the suffrage. Why take this risk when we can get along without it? I shall vote for the minority report. If it is voted down I will then accept the majority report as being the best I can do under the circumstances.

Mr. WINN: When this question of the grandfather clause was first submitted, I was under the impression that to support it would be in violation of my oath of office to support the Constitution of the United States, but after I had been taught by the able and lucid argument of Judge Walker, the difference between personal rights and political rights, I felt that I had tended been enlightened, and under the argument and splendid speech of our honored chairman, my judgment, my opinion was formed and crystallized. The ground as to the argument, pro and con, upon this question, has been amply and ably covered by the best men, and the most capable on this floor, on either side of this case. Therefore, I shall not undertake to rehearse any of the arugments. I did want to say, however, that with a conscience void of offense towards God or man, I now heartily and fully accept the majority report of this Committee on Suffrage. In it, I find no conflict with the Constitution of the United States, which I have sworn to support, no points therein or friction, between the laws of its provision, and that of God, and it will with the other provisions in the ordinance, accomplish the chief purpose for which this convention was called into existence. It will endure to the uplifting and betterment of both races, all alike will rejoice, the negro as well as the white man, the negro who is capable of voting will rejoice that the vicious and densely ignorant are eliminated from the electorate of this State. I had heard nothing said on this floor as to the grand old Confederate soldier, that has distressed or pained me except once, and once I heard the contemptuous expression applied "the old Confederate hoodlum." My God, that man had no appreciation of what he said, he had no appreciation of what those men—even those he so designated—he had no idea of the nobility of their lives, and that they had sacrificed their strength and their vitality until they were wrecks, upon the altar of their country. Mr. President and delegates, I protest against any such appellation to any Confederate soldier. Look at that poor old tottering gray headed man that he called a hoodlum. Ah, he

may be addicted to the drinking of whiskey, he may be addicted to the morphine habit, but do you know, his history? Look at him in 1861—proud, the member of a family that stands as high as any in this Southland, he steps forth a lad of 18 in the flush of his early manhood, strong with enthusiasm, he dons the Confederate uniform, see him as he kissed that weeping mother and sister. See him as he turns and looks into the ranks of the defender of his country, turning his back upon the comforts and luxuries of a happy home and goes to meet the hardships of the march, the dangers of disease, and the terror and carnage of the battle field, see him as he faces undauntedly the very mouth of the cannon, as it belches forth the flame of hell and the missiles of death. Anon he is lost to sight, now we see him again, borne on a litter from the field, mangled and bleeding to the hospital. See him as he suffers there, but at last, under the care of a surgeon, and the gentle touch of Dixie's Maidens, slowly he returns to life. Then see him as his life current begins to throb again, leap back to the front, eagerly taking his gun, and again into the hell of battle. Again and again, he falls wounded. At last, the resources of the country exhausted, the Confederates have worn themselves out whipping the invaders during that long four years. The war is over, and he with a remnant of the army, see him as he returns to a desolate country, a desolate home, property gone, home gone, health gone, and it may be that every now and then, he is racked with pain. Morphine and whiskey his only ease, and because he now and then driven to desperation by constant pain, seeks that relief, you call him a hoodlum. No, don't do it, he is now my brother, a noble life, wrecked upon the altar of his country. It occurs to me that he who could use that expression, as applied to the lowliest Confederate soldier, he can find in this broad land, however dissipated he may be, that if he had been at the Crucifixion of the Savior, he would have been the one that would have reviled Him, he would have seen nothing of his glory and power in the past, and would have been incapable of seeing and comprehending its effulgence in the future. He that was called a hoodlum is my brother. In 1861 I enlisted for the war in the Barbour Grays under that splendid gentleman and perfect captain, Blackmon, serving twelve months as a private and three years as a surgeon, and did my duty in that four years' service, and it is the proudest record of my life. Yes, I am a Confederate soldier, the grandson, and the great grandson of Revolutionary sires, and I am not ashamed, gentlemen, that at one time during the Revolutionary war, the noose with the hangman's rope was about both their necks. This was in the na-

tive State of South Carolina. They had been active in the service of their country, and when they were captured by British soldiers their death was determined upon, but thanks to the ability of a good old preacher, who preached the same as some of our preachers to this day, praying a long time, the preacher met the procession going to the gallows, and recognizing them, said those are my members, and I wish to talk and pray with them before execution. The request was granted, the preacher talked and prayed, but before he said amen, he being familiar with a plan for their rescue, the soldiers of the United States appeared and they were saved. Upon this ground, gentlemen of this convention, as a Confederate soldier, and being the grandson and great grandson of these sires, I shall demand my right to register as a voter. Talk about the soldier being humiliated, to ask registration along this basis. No, it will be his pride. I can see my four well educated, proud, buoyant boys, now grown young men, I can see in my mind's eye when they walk up to the registrar's office and demand to be registered, because they are descendants of a soldier. I can see their cheeks mantle with pride. There is no trouble about humiliating the soldier. The soldier's record is the proudest record of his life. The younger men in this convention cannot see the glory, the terror, and the trials and dangers of those by-gone days; but let me tell you, gentlemen, even the enemy's praise was wrung from them. Professor Andrews, the distinguished scholar and renowned educator, and captain of artillery in Grant's army, in his lecture on the life of R. E. Lee, after giving the lines and plans of the battle at Coal Harbor, pausing, he exclaimed: "Where can you find troops comparable to that thin gray line; search the pages of history, you can't find it." Years ago it was my pleasure to attend a meeting of the Medical Association of the State of Alabama in the city of Mobile. Well, there the kind and generous big-hearted city and profession gave the association an excursion to Point Clear. On the return trip there was a banquet. On our return from Point Clear the face of the waters were disturbed by the breeze to that extent that the boat rocked some. After the banquet we gathered in a group talking and enjoying the occasion—there had been lots of good things at the banquet—beer, champagne and anything you wanted to drink. Doctors rarely ever take anything of that kind, but do occasionally, on excursions. I did not see but one doctor under the influence of stimulants and it came to him like a stroke of lightning, in a moment's time he was under its influence. Remember we were all standing and rocking, the boat caused us frequently to change our positions in order

to keep our equilibrium. All of a sudden he staggered back and dropped his hat, got it up with a terrible effort and brought himself back into the circle of the group. He says, "Well, gentlemen, I have decided that about the best thing I can do is to keep the motion of the boat." I think that is our position today, brother delegates. We are assembled here from all over the State as brothers, and now, when our labors shall be finished let us all as brothers join hands without doubting and carry our finished work before our masters, the people, for approbation. The best we can do is to take the motion of the boat.

Mr. GREER (Perry): Mr. President and gentlemen of the convention. It is not my purpose to discuss the legal phases of this question nor to spend but $32.50 of the State's money in time.

I will also say, barring a few minor amendments, I am now ready to vote for the entire measure as reported by a majority of the committee. I simply desire to call the attention of the members of this convention, Mr. President, to a few features of the discussions from the standpoint of one who mingles with the masses of the people, and defend them so far as my county and district is concerned, against misrepresentations, intended or implied, made upon this floor and by some of the press of this State, that the records may show they were not allowed to pass unrefuted.

It has been stated upon this floor by one who not only bears the honor as delegate from the State at large in this convention, but who occupies the position of chairman of the great and dominant party of this State, that "this convention comes not in response to the demand of the people of Alabama for white supremacy, but in answer to the demand for honest elections. The time has not existed in the political history of the gentleman from Madison (Mr. Walker) and mine when the Democracy of the State need appeal for white supremacy, and there never will come a time when there be danger of negro domination in Alabama. Will you substitute for our present magnificent system of fraud, long tried and well established, a commission established from a central office in Montgomery? The whole scheme is not in favor of fair elections. I will not question the motives of those who presented it, but I declare to you that the scheme as presented by the majority of this committee permits the most infamous frauds that were ever planned in Alabama. They provide for a Committee on Registration. They provide means for limiting the membership of the Registration Board. They will register them for this year, and every negro that registers may be over 45 years of

age, and will be voting 45 years hence. I do not say that they will do it, or that they intend to, but I say that the scheme permits them to do it. I say there are counties in Alabama where it will be impossible to do it, and I say there are counties in Alabama where it will be entirely practicable, and the chairman of the committee is not ill advised as to some of the counties in which it would be practicable to do it."

Now, Mr. President, there is not a gentleman on this floor for whom I have a more friendly feeling than for the speaker who used the language quoted, yet I must admit my surprise on hearing such broad assertions coming from so able a delegate and chairman of the Democratic party of Alabama. He boasts of "our magnificent fraud" in the one breath and in another speaks for record that the document drafted and passed by twenty-five of the most learned lawyers in the confines of the State after weeks of study and arduous labor, as a scheme and a fraud. He goes so far as to designate by implication where it is practicable to perpetuate this fraud, and the intimation while not in words
93 is that the scheme was concocted for such perpetration.

As I said in the beginning, I shall not attempt to discuss the technicalities of the provision. I have confidence in the ability and respect the honesty of the whole committee and accept the report at its face value. I simply wish to refute, sir, that my constituency have joined hands in the reconstruction of the organic law of this State with other than honest motives. I hail from a section, sir, there the negroes are as numerous as the plovers in Texas and the pickaninnies rollick among the magnolias like monkeys in a cocoanut forest. A section where the cotton bloom is the emblem of prosperity, education and refinement and in the sinewy muscles of the black man love's labor is found and not lost. I represent a people who in working out their own political salvation have worked out the salvation of the State. Then to question the honesty of this people at an epoch in our history when permanent white supremacy is in easy grasp is like smiting the breast that nursed you. I speak by authority when I tell you the Democrats of the Black Belt have tired of the notoriety that they are their brother's keeper and theirs is the home of ballot-box stuffing and political thievery. I tell you honestly and candidly, if this convention should disfranchise the negro even at the sacrifice of representation in Congress and at home, my people will rally to your flag and ratify your action.

It has been said by a delegate, we need have no fear of negro domination in Alabama. I tell you, we people of the

Black Belt do fear such domination. While it is true peace and harmony exists between the races, and the negro is no longer a factor as against the social and political interests in the Black Belt, with the probable and almost certain formation of two strong political parties in this State as one of the results of the new constitution we are now framing, and he is again allowed the free franchise as under Republican rule, without restriction, history will repeat itself and the spirits of the sires now resting in death will witness the shot-gun they once carried, in the hands of their children, and sentries regularly walking their beats to protect our homes and our firesides. And, if their noble spirits can reason as in life, they will picture anew in their mind the prison cells in this city, the flashing bayonets of negro soldiery and the harsh command of negro officials as they closed against them the dungeon door, with no Angel of Mercy like unto him who unshackled the Apostle, save a brave and defiant manhood.

Strange, but true, that with all the honors and reputation achieved by the Black Belt in war, in statesmanship, in letters poetry and song, we are best known to the people of the State—yea, even to the chairman of our party, by our political notoriety. Members of this convention have almost wept with joy when they would tell us how anxious they are to relieve us of the negro incubus forgetting the fact that for a quarter of a century the Black Belt has piloted the old Democratic ship from among the breakers on divers occasions and saved her from wreckage. They fail to conceive how the negro can be disfranchised except when we need him, and good will, good cheer and prosperity reigns supreme in the black counties, while it takes dollars and limited social equality to vote him in the white counties. It is an art, gentlemen, learned only by experience, one fraught with danger—a "magnificent system" that can not be inherited or perpetuated It is an achievement of faith with the evidence not seen It is Christianity, but not orthodox. It is prime but humane. It is wrong but right. It is justice but injustice. It is life instead of death. That this subordination will continue, we do not believe. Even in the election of the delegates on this floor, through our sheriff it was learned that a threat had been made that an effort would be made by the younger negroes to concentrate their forces and control the election. It was purely out of fear they did not attempt to put their plans into execution. Nightly meetings were held and this convention discussed, and while none became sufficiently emboldened to tell their secrets, it was plainly seen that under a proper leadership they would have entered the contest even at a risk of certain bloodshed.

Aside from these conditions, we believe the time has come to eliminate this illiterate vote and teach the youths of our country that the ballot is sacred and should and must be protected and defended against any and all efforts to pollute. While we appreciate the fact that the time was when, to protect our homes and families, it was necessary to pursue another course, that time has passed, and, with due reverence for the fathers for their bravery and chivalry, the Black Belt is now ready to about-face and lend her aid not only to purify the ballot, but to leave no mark of unfairness upon her escutcheon when the voice of the white people is expressed at the polls. When such is the sentiment which permeates a section that has stood as a stone wall in upholding white supremacy, oftimes marching almost into the jaws of death, as did the four hundred, is it fair or just to question our motives or charge us with infidelity? This is the time of all times, Mr. President, for unity of action among the white people of Alabama, without regard to political fealty. No white man, who is a white man, should be placed in position by any act, word or deed, by this convention to have his hair disheveled and his good temper disrupted by unweighed words that might create discord. This convention should not go out of its legitimate province to unfairly criticise and impugn the motives, and, perchance, weaken the chance for the success of the cause we were called here to promulgate.

Now, in conclusion, let me say, there may be no fears that the Black Belt will not sustain the action of this convention. Like the soldier on duty, she knows not how to disobey orders when her party speaks. She appreciates the wisdom and learning of many who compose this convention and has confidence, despite the chaff that has been blown, that when the work is completed the fundamental law of this State will be worthy of endorsement. Her people are those of culture and refinement, the opinions of some newspapers to the contrary notwithstanding. Her colleges are found at every county seat and her public schools almost as numerous as the readers of The Birmingham-Age Herald. We long for an influx of white people to take advantage of our fertile soil, healthful clime and popular schools. This influx will come when it is known for certain that there need exist no fear from our negro population.

I believe, Mr. President, that the action of this convention means not only a new era for Alabama, but marks the beginning of a new era for the civilized world. The flag of the nation now floats above many isles of the sea. Our commercial interest extends throughout the civilized globe, and I believe the time will come when the progressive strides of the

English-spaking people will encompass the globe, and our principles of free government will be embodied in the laws of every nation—yes, when America herself shall be bounded on the east by the rising sun, bounded on the south by the Terra delfuaga, bounded on the north by the auoroborealis and bounded on the west by judgment day.

Mr. BULGER: It is not my purpose to undertake anything like an elaborate argument at this time, but simply and briefly to give some of the reasons for the position I occupy on the report of the committee. On account of the magnitude and widespread importance of the pending question, the convention has acted wisely in providing that every delegate shall have an opportunity to express his views. On this floor we have all the political parties, both State and national, represented—the Democrats, the Republicans, the Populites and those few who yet have faith in the free silver and the gold standard doctrine. I believe it is right and proper that we have an expression of the views of all of those gentlemen. We are not making a constitution for any particular section or any particular party. We are making a constitution for all the people of Alabama. At the very threshhold of our efforts to solve this great problem with which we are confronted, we are met with two propositions, plain and simple. Is the grandfather clause constitutional? Is it right? Will it stand the test of the Supreme Court of the United States? Will it stand the test of our own conscience? These questions, my friends, must be answered; they must be answered today. When the hands of the timepiece that hangs on this historic wall have pointed to the hour of twelve, each man on this floor, for himself, must answer Yea, or Nay. In passing upon a great question like this time and labor should not enter into the consideration. The committee is hopelessly divided. They have so announced by presenting to this convention two reports—the minority and the majority reports. Both of these reports are backed by ability, by patriotism and by honor. The majority say that the grandfather clause is constitutional and right. The minority say that the grandfather clause is unconstitutional and wrong. What is a layman to do? There are one hundred and thirty members of this convention who are not members of this distinguished committee. My friends, we are confronted with the necessity of investigating for ourselves. Unlike the distinguished gentleman from Jefferson, who addressed this convention in the outset of this argument, I have the profoundest confidence in the patriotism and in the honor of every member of the Suffrage Committee. I am not surprised that this committee, after six long weeks of research and thought and considera-

tion, have presented to this convention an article on the suffrage that has not only attracted the attention of the people of Alabama, but of the people of the whole country. I say I am not surprised that men like them should write an article on the suffrage that has attracted the admiration and approval of the people of Alabama. This committee does not come from any one place. The members of it come from the cities and the country; they come from the Black Belt and the hill counties; they come from the mountains of North Alabama and the flat lands of South Alabama. They come from every section of the State; they are not confined to one occupation. On that committee we have lawyers and doctors and merchants and bankers and farmers. No wonder they have written such a report. In support of the position of each side—of the majority and of the minority reports—they have not only entertained this convention with their argument, their logic and their oratory, but they have presented to us decisions upon this great question. I, for myself, have taken the time and the trouble to investigate every one they presented. I believe that four of the cases presented by the advocates of both the majority and the minority reports settle the question about which we have been talking so long. The case of Minor vs. Happersett in 21st Wallace, the case of the United States vs. Cruikshank, and the United States vs. Reese in the 92 U. S. Reports and the late case of Williams vs. The State of Mississippi, in my humble judgment settle this question as to its constitutionality. They all decide the fundamental principal upon which this clause must stand or must fall. They say that the Federal Government has no power to regulate the right of suffrage in the States. Nonconstat, the States have the right to regulate their own suffrage. Then we only have to read the Fifteenth Amendment which puts a limitation on our right to regulate suffrage. It says that no citizen of the United States shall be deprived of the right to vote "on account of race, color or previous condition of servitude." There are three reasons, there are three limitations—that you shall not deprive a citizen of the United States of his right to vote, because he belongs to the African race; you shall not deprive him of his right to vote because he is a black man. You shall not deprive him of his right to vote because he has been a slave, but it does not say anywhere that you shall not deprive him of his vote if he is a man who fails to understand the obligations of a citizen of the United States. If I were on the committee on the harmony and order of the constitution, I would reverse the report of this committee just a little. I would put the good character and understanding clause first. I would measure

every citizen who offers to vote by that clause. We all agree that that is constitutional. Then I would make an exception of the old soldier and the descendants of the soldier. I would write the grandfather clause next. Now, is it constitutional? Are we prepared to answer that question today? For myself I am. I am ready on that proposition to answer yea. Then we go a step further. Is it right? Can I answer yea on this proposition and satisfy my own conscience. If I can then I have discharged the duty—the important duty, the main duty, the most prominent duty I was sent here to discharge. We have fixed the suffrage clause.

Right here, in this historic hall, forty years ago, your fathers signed the ordinance of secession, picked up their hats and walked out of the Union, and the tocsin of war was sounded from the rock curbed coast of New England across the country to the Rio Grande. The patriotism of the North rallied around the Stars and Stripes; the heroism of the South rallied under the Stars and Bars of the Confederacy, and they waged for four long years the most bloody war recorded in ancient or modern times. The brave men of the South laid down the plow and the hoe; they went to the battle front for what they believed to be a great underlying principle of our government, and they poured out their blood like water. They followed Lee and Jackson four long years through blood and smoke and fire from Sumter's coast where the first shot was fired to the famous apple tree where Lee surrendered. Those are the men I would exempt from the understanding clause. I would build a monument here today when the roll is called to those heroes of the Confederacy that would last longer than time. The good women of Alabama, out yonder on Capitol Hill, hard by the cradle of the Confederacy, have erected a monument, looking towards the skies, which will tell future generations of the patriotism, and the heroism and the courage of the soldiers of the Confederacy. (Applause.) It is built of marble and stone
94 and steel. I would write one in the constitution and I would build it of principle and when this old historic building has passed away and when that marble and stone and steel that stands out yonder is unknown, that principle will continue to live. Great men and great statesmen live; great men and great statesmen die, but great principles never die. (Applause.) I would build a monument like that to those heroes of the Confederacy, and I would do it without regard or without comparison to the inferior race in our country.

For thirty years the negro has had a fair and a full part as a citizen in Alabama. He has been at the polls and in politics on an equality with the white man. He has proven himself in-

capable of local self-government. At every election he is the subject of barter and a sale. If you let him alone and let him vote his sentiments and his free will, he will vote against the white man and against the interest of the country. There are only two ways by which you can control him. You must either buy him or steal his vote. I am opposed to either. I would rather eliminate him from politics and let the white men of Alabama control Alabama.

Mr. HANLEY: That is the doctrine.

Mr. BULGER: It is better for the white man; it is better for the negro, and it is better for the country that it be done. I would give him a fair and an impartial trial, when his life or his liberty or his property is involved.

I like the grandfather clause because it is a white man's clause. I like it because it practically permits all white men to vote, and it practically denies all negroes to vote. The grandfather clause my friends is not not an experiment. It is in the Constitution of the State of Louisiana, and against the protest of both of their United States Senators, against the protests of many of the prominent newspapers in Louisiana, against the protest of more than half of the Representatives in Congress, yet the people in convention assembled, wrote it in the constitution and it went back for their ratification, and by a large and overwhelmingly majority the people of Louisiana say it is right.

The people of North Carolina put it in their constitution against the protest of both of their United States Senators, against the protest of their members of Congress and many of their newspapers, and the people of North Carolina say it is right. The people in this country are the power. When they speak, United States Senators, Congressmen and newspapers are in the minority. Make a constitution that guarantees to the people a free vote, a fair count and an honest election, put a clause in it that redeems the pledge of the Democratic party in convention assembled, that we will disfranchise no white people. Go to the sovereign people in Alabama on an honest platform like that, and the opposition to the grandfather clause can no more be in the way of its ratification than the tiniest bush can stand in the track of a mighty storm. (Applause.) You must have the toiling masses; you must have the good people of Alabama behind you; you must have the men who make the cotton and the corn; you must have the men who built the magnificent cities in our State; you must have the men who lay the brick and the mortar. You must have the men who build the roads and put down the ties. You must have the men who stand at the throttles of our factories and our railroads and great enterprises; you must have the men

who are behind the great engine of progress that has made Alabama the greatest State in the Union, to ratify your constitution. You must have the endorsement of the people, the lawyers cannot do it, the merchants cannot do it, the politicians and the statesmen cannot do it. If this constitution, my friends, is ever ratified it must be done by the common people of Alabama. If the minority shall succeed in striking out the grandfather clause they will have been successful in striking out the white man's clause, and this convention would be deprived of the great opportunity of going to the people of Alabama on a question of ratification with the magnificent declaration that we provided for the old soldiers of the Confederacy.

Now, my friends, I am admonished that my time is out. It is a difficult matter to run a speech on a great subject like this, right up to the minute in thirty minutes. I thank the gentlemen of this convention very much for the attention they have given me. Up to this time in this long and heated debate, I have been content to listen to the distinguished gentlemen on this floor. I have been especially interested in the speeches of the gentlemen who argued along with the president of this convention, the legal position. I have been especially interested in the speeches of my friend here from the county of Randolph and my friend from Tallapoosa, who have presented the business side of this proposition. Now, Mr. President, I thank you again for this opportunity to express my views to this convention.

Mr. LOMAX: When I heard that there would be a minority report on the Committee on Suffrage and Elections I hoped that in that minority report which, in my judgment, struck down the best feature of the report of the majority, that there would be some suggestion of a remedy, some intimation of a scheme by which we could accomplish the great purposes for which this convention is assembled, and in that hope I was disappointed. The report of the minority contained nothing but doubts as to our future, prophecies of evil, predictions of disaster and forebodings of calamity, and with those predictions and those prophecies and those forebodings they offered to this convention nothing which in the judgment of any candid man could meet the situation in which we are placed or could accomplish the purpose for which we are assembled.

This great movement which has taken place already in Mississippi, Louisiana and in North and South Carolina, this great movement in which today the people of Virginia and of Alabama are acting, must have been founded upon some great cause that needed a remedy. The States which I have named have already acted. Alabama and Virginia will act, and those

States that have not done so will act hereafter, and they will act because they believe that the time has come to put a stop to frauds in elections; because they are unwilling to continue a system which makes perjury honorable and bribery a badge of distinction, because they are unwilling to impose on posterity the awful incubus under which we labor, and which is honeycombing the morals of our people with fraud and perjury, because they desire their children to be reared in an atmosphere of moral purity, because they wish to establish a purified electorate, and to decree a perpetual reign of virtue and intelligence, and when they have so acted, they will be sustained by the moral sentiment of the world and no power of finite intelligence will dare to disturb their decree.

Now, what are the objections that are urged to the plan of the majority of this committee? These gentlemen expressed the opinion, one of them at least very doubtfully, my distinguished colleague from Montgomery (Governor Oates) that what is called the grandfather clause is unconstitutional. That is a misnomer as has already been said. It is not a grandfather clause, but they have succeeded in fastening that name upon it, and therefore I will so consider it. I do not propose or purpose or intend to go into a legal argument upon this proposition, but from my reading of the decisions and from what I have been able to gather in the course of this debate it is my opinion that this clause is not unconstitutional. The proposition it seems to me is this. That unless it is plainly written in the letter of the law, or plainly established in its administration by the agencies of the State, that a discrimination is made because of race or color, or previous condition of servitude the clause must stand as constitutional. No court can look at the letter of this law. No court can look at the manner of its administration, if it is administered as it is proposed to be done, and say that there is written either in its language or in its administration any discrimination against any man because of his race or his color or his previous condition of servitude, and therefore it stands to reason under the great weight of authority that the clause is not unconstitutional.

It has been said that this is a great scheme on the part of the Black Belt—I do not mean merely upon the floor of this convention, but in public press—that this is a great scheme on the part of the Black Belt to perpetuate itself in power in Alabama. Who, gentlemen of the convention, started the call for a constitutional convention? It came from the Black Belt of Alabama. They wanted relief from the terrible situation in which they had been for twenty-five years, they wanted to stop fraud in elections; they wanted to put an end to those influences which were corrupting the morals of their people, and they persisted in that call until, by the direction of the

sovereign people of Alabama, you are here in convention today, seeking relief from fraud, begging that the incubus of perjury be taken off their shoulders, urging a purified electorate. We are told here that, when this Suffrage Committee has reported it is a scheme on the part of the Black Belt to perpetuate the methods which have heretofore always prevailed, and to entrench themselves in power, and it is said, that as a part of that scheme we have put in that grandfather clause to temporarily catch the votes of the white counties, knowing that it will be stricken down by the Supreme Court of the United States, and that therefore they will be excluded from suffrage under the permanent plan of the committee, when the registration has taken place under this grandfather clause, with the other clause in it that permits registration because of good character and the understanding of the duties of citizenship. I ask you, gentlemen of the convention, what court can determine that the men who are permanently registered as voters, were registered under the grandfather clause, or the clause of good character and understanding? It is impossible for that to be determinted by any court, and therefore the men who come into our registration under this grandfather clause will be permanent voters and there is no court in the world that can strike down their rights. But it is said that it creates a permanent and hereditary class. It is not hereditary, because no man secures the right to vote by reason of the fact that his father had it, and it is not permanent because the man upon whom it is conferred must soon pass away. It is said in further objection to the clause that it will insult the white men who cannot read or write—that it will insult the sons of Confederate soldiers who cannot read and write—to make them come into the electorate under such terms. Insult them by saying that because your father went forth to die in glory with Sidney Johnston, or to live in immortality with Robert Lee you shall have the right to vote? They will wear that right, gentlemen of the convention, as proud a distinction as you old men wear upon your breast the bronze badge of courage put there by the women of the South. (Applause.)

We are told that the adoption of this plan will make capital timid and check immigration. We heard before this convention met, and I read it in an article prepared by my distinguished friend from Montgomery (Governor Jones) that capital was timid, that industry halted and immigration stopped at the doors of the State where the suffrage was subject to manipulation. We come into this convention and we offer a plan that forever stops manipulation of the suffrage, and we are told that if we do that thing, capital will become timid, that investments will stop and immigration will fail to seek

us. Where is the country, and when in history did it ever occur that capital was timid of entering a State where the reign of virtue and intelligence was made permanent and eternal? When did it happen that immigration ran away from the borders of a country where an electorate was established of the highest morality and the strictest virtue? That is the object sought by this convention. That is the object that will be attained by this convention, and I deny that proposition that such things will come to us as the result of our action.

They tell us further that southern representation in Congress and in the Electoral College will be cut down if we abandon universal manhood suffrage. California, Connecticut, Delaware, Maine, Massachusetts, New Hampshire, Pennsylvania and Vermont do not have today universal manhood suffrage. Can they strike down the representation of Alabama because we abandon universal manhood suffrage, and let these States retain their representation? And suppose they do? Suppose our representation is reduced. I submit to you, gentlemen of the convention, that reduction in representation is a small sacrifice to make for pure elections and the supremacy of virtue and intelligence. (Applause.) Ah, but they make more dire predictions than that. The distinguished gentleman from Lee told this convention that it might happen in the event that this suffrage clause was adopted that Alabama would again be reconstructed. Strike down a southern State by reconstruction; destroy its form of government; make its every bond, State, county and municipal absolutely without value; paralyze its industries; close up its furnaces and factories, and reduce it to the condition of a conquered province, because that people have risen in their manhood and said that fraud and perjury shall disappear forever from its limits? Will they do it? Ah, gentlemen, even if they dared attempt it the voice—the still but potent voice—from Wall Street that sent the flag to Porto Rico, but held up the constitution when it undertook to follow the flag, will say to those people that attempt it, "Murderers, stay thy hands!" and it will be stayed.

We are old further, gentlemen of the convention, that if we established this plan, the negro will leave the South will leave Alabama. Where will he go? Will he go to Mississippi, to Louisiana, to South Carolina or North Carolina? He will be met upon the threshhold of those States with the pre-
95 cise condition that he occupies in Alabama. Will he go to Illinois? Some of them went there but yesterday, and they had to be guarded in their cars whit shotguns, until the engine could fire up and bring them back to the South. (Applause.) Will they go to Africa? The failure of the nineteenth century was the Republic of Liberia, and, however much

of philanthropic money there may be north of our borders, there is not enough to establish a colony of 10,000,000 beings and maintain them until their learn the arts of free government. They will not go. The old negro upon the southern plantation and his son cares nothing for the right of suffrage. The majority, and a vast majority of them, are content to stay where they have stayed since they were born, and are content to labor so long as they are met with justice and fair dealing, and those who may want to go, who may feel upon them the awful responsibility which declares that they must participate in government, if they go and leave the others, they will establish rather a period of happiness and contentment than a period of distress or disaster.

But we are told, Mr. President, that if we adopt this scheme, these Registration Boards will destroy the rights of the people. I have been surprised at the distrust which has been evidenced in this convention of the people and their officers. When we had the Executive Article up, it seemed to be the supreme purpose of the convention to hedge around the Governor and the State officers with legislation, upon the theory that they were all not entitled to the trust and confidence of the people. When the Legislative Article came around, we found the same distrust the men selected by the people to represent them in the making of laws, and, when we come to this Election Article, the same spirit of distrust comes up, and says we cannot trust these men to be fair; we cannot trust these men to be honorable. Is republican government a failure? If we cannot trust the Executive Department, if we cannot trust the Legislative Department, if we cannot trust the men who are to manage this registration, then popular government must be on its decline, because the people must have gone so wrong that they select men for public office unworthy of the great trust imposed upon them, and we are ready, if that be true, to adopt the suggestion that came but a few days ago from Australia that our Government in America had failed and that it was best for us to once more accept the sovereignty of the British Empire. I do not believe that free government is a failure. The very movement that produced this convention shows that men are capable of self-government. Here when after the war these people had been stricken down, their right to vote had been taken away, the Thirteenth, Fourteenth and Fifteenth Amendments had been passed for the purpose and with the object of putting the black heel upon the white throat—these people here said you have undertaken to tie us down by every means that you can, but by the blood of our Caucasian ancestors who fought and secured this land in which we live, we will rule it by the shotgun or by fraud. For twenty-five years they have ruled it. By

the same token they could have ruled it for twenty-five or fifty years more, and yet because that fraud was wrong, because they did not want their children to grow up in that atmosphere, because they wanted to establish purity in morals in public and private life, these people rising "from the stepping stone of their dead selves to higher things," declare that with all this power we will have a constitutional convention and take away the possibility of fraud in Alabama forever, though it means our own defeat. (Applause.) Tell me that with such a people free government is dead? Tell me there is no patriotism in men like that, and I tell you, gentlemen of the convention, it took patriotism like that which sustained Washington and the Continental Army amid the gloom and despondency and snow and ice of Valley Forge, and made possible the splendid triumph of Yorktown. It took a patriotism like that which sustained the men of 1812, who, notwithstanding the disasters that laid waste their country and devoted their capital to the flames, enabled them to hurl back from the soil of freedom the red cohorts of British invasion. It took a patriotism like that which sustained Zachary Taylor and Jefferson Davis upon the historic field of Buena Vista and sent Scott in triumph to tread unchallenged the halls of the Montezumas. It took patriotism like that which sent Pickett to the top of Missionary Ridge, and enabled Hancock to hold those historic heights at Gettysburg. A patriotism such as that must live forever, and keep free government alive so long as the people are true to the principles of their country and the traditions of their race.

Now, gentlemen, I am not here, and we are not here, to disfranchise the negro race alone, we are here for a higher purpose and a nobler end. That purpose and that end is to establish pure elections in Alabama. I was born in this State; I expect to die within her borders, and I wish to contribute all that I can or have to her welfare and her prosperity, and I feel—I feel it in my very bones—that when I have voted to put upon the people of this State the plan of the majority of this committee, I will have done all that man can do to insure her peace, prosperity and power. (Applause.) When this constitution shall have been ratified by the people, we will have assured the supremacy of virtue and intelligence in our great State, we will have stricken down forever fraud and corruptions in elections; we will have driven from the field of politics all temptations to strife and eradicated all elements of discord along racial lines, we will have softened, graced and ennobled the spirit of party, and driven the bandit propensities skulking to their dens, we will have builded anew the foundations of morality and truth in public and private life, and laid broad and deep the beginnings of an elevated and high-minded citi-

zenship, devoted to the arts of peace, drinking deep at the fountians of knowledge, alert and vigorous in the upbuilding of a great State, wherein there shall be found a population of millions of moral beings, engrossed in a proportion far beyond that of any other in the world, in the toils of agriculture and manufacture and commerce, and the music of whose unnumbered industries shall beat a quick-step to the world's progress, and in the era of peace, prosperity and power that will come to us, our people can exclaim with truth and with thanksgiving, "At last! At last! the dangerous, troubled night is o'er and the star of peace returned." (Applause.)

Mr. SMITH (Autauga): The hour has about arrived for the closing of this debate, and it is now my time to present my views. This is the Alpha and the Omega, Autauga County is the first alphabetically at the head of the list of counties, and if I should consult my pride I would say that it is in every respect first, but I gracefully yield this position to the honored old chairman of the Suffrage Committee, and if he desires to close the argument, we would yield likewise the position to him.

Mr. President, it seems to me, sir, that this question has been discussed from every imaginable standpoint. It has been discussed from the legal and constitutional point; it has been discussed from a moral and a natural standpoint, and ably so, and by some from a very unnatural standpoint, so I shall only undertake to make a few scattering remarks.

Fellow delegates, I feel that a medal should be awarded to the president of this convention for selecting twenty-five noble and learned men from this body, who have in my opinion given us under the existing circumstances the best solution of this entire suffrage plan that could be originated by men. Like brave men they fearlessly entered the old ship of state and have guided her through the breakers down the narrow channel, four of whom, however, through caution, have said with some doubt in their own minds that there was danger ahead. Not so say the majority of the crew, and I feel, sir, that they will soon land here into a haven of peace, virtue and prosperity, and then all the honest and good men of this nation will rise up and call them great.

Mr. President, if we do not lock horns—and I do not think we will—with the Constitution of the United States, then, sir, I feel that we should honor the old soldiers and their descendants. Rich are the treasures America has given the world; wonderful the countless ore and inventions and discoveries with which she has enriched mankind; beautiful the masterpieces of her art, but the most glorious jewel in the crown of her brow is that of her heroic sons who have fought and died for what they thought was right. Now, gentlemen, if you

want to honor the memory of those who sleep, do your duty to those who struggled. Could you take their vote today what would be their answer, louder than the roaring of the artillery? "If you would honor us, honor those for whom we died." Mr. President, we see that our nothern friends have made it a special privilege that appointment to office must go to their old soldiers, or to descendants of their old soldiers, and they also contribute largely to their financial wants, and we have nothing of this to give, therefore, Mr. President, I thank God for this opportunity of showing our apprecation and gratitude to those who wore the gray.

Mr. President, it seems to me that Congress, though they may be composed mostly of Republicans, would give us a helping hand when they find that we are trying to establish virtue and honesty in our State.

I have patiently listened to the various discussions on subjects pertaining to our fundamental laws, and I have tried to vote intelligently on all questions, and I feel that every principle of government pertaining to the great interest of our State has been properly guarded by the friends of every measure. But, Mr. President, I have heard statements made here which have gone down in history and out to the world by some men of this convention that make my heart sad. Yet we are bound to admit that their statements are, to a great extent, true. The distinguished chairman of the Executive Committee said that mob law was on the increase, and it was brutalizing and misleading the young men of our country, and the other distinguished statesman assails the grand jury system, and desires that the judges shall arraign the criminal as if the judge, as well as if all of us, were not particeps criminis to the great evils that spread over our Southland.

Mr. President, I beg these gentlemen to take their hands off of the sheriff and grand jurors of our State, for they know when the fountain-head is poisoned, the stream is likewise affected. The question is, who poisoned the fountain-head?

Now, Mr. President, I cannot hope in going over ground so often trodden to offer anything remote from common observation and thought; but I do say, sir, that the Fifteenth Amendment of our National Constitution, and the advocates of social equality are responsible for these great wrongs, not only in the South, but in every other State in this Union. Yes, gentlemen, I dare say that the Force Bill would have been placed on our people had the advocates of this measure not been uneasy, through fear, that they would have met the fate of the Thracian King who fed his horses on human flesh and afterwards himself became the victim of the unnatural appetite which he had stimulated.

I hold, Mr. President, we were bound under these existing

circumstances, in order to protect our firesides, our homes and our families, to do things which, within themselves, will work a change. And I feel, sir, that at the beginning of this, the twentieth century, that the God of Creation has permitted Alabama to call her sons together on this occasion to begin this great reform. I say, sir, that the Republican Admisintration, which added the Fifteenth Amendment to the Federal Constiution, caused a dark cloud to spread over our political sky, equal to that which Byron has so vividly depicted as coming over our material world:

"When the bright sun was extinguished, and the stars
Did wander darkling in the eternal space,
Rayless and pathless, and the icy earth swung
Blind and blackening in the moonless air;
Morn came and went and came, and brought no day,
And men forgot their passion in the dread
Of this, their desolation.
And all hearts
Were chilled with the selfish prayer for light."

And we have for more than a quarter of a century struggled under this political cloud, with a people whose morals are today, in my opinion, worse than they were twenty-five years ago, notwithstanding they are being educated at the expense of our people. And it is the younger negroes that give us so much trouble. This is not confined to the South, but alas, in the North and West. There is no doubt, Mr. President, that the learned statesmen, though Republicans, lost their reason on account of passion, when they permitted a race, which sustained the relation of slaves to those who wounded our government, and who had heretofore controlled its affairs; and their admission to equal participation in the administration of its affairs, was something never known to the history of the past, and it has shown to the world, that "virtue and intelligence are the only security of republican institutions, and that a Government which does not represent the property and ability of her States, has no stable foundation.

It is a well known fact, as the great statesman, scholar and orator, Bourke Cochran, said in this city, that the Fifteenth Amendment is a failure. Notwithstanding all of these known facts to history, our southern States are compelled to call a constitutional convention in order, in some way, to get
96 rid of this great evil, so we can protect the negro as well as ourselves; and I sincerely hope that a new morn will, e'er long, unbar her gates and dispel the dark clouds that overhang our political sky; for it seems now, that office and place are bought and sold as things in the market.

In promoting the aims of the ambitious, the arts of the demagogue are more potent than the virtues of the statesman. These are melancholy truths—facts to be lamented—but they should not cause us to despair of the future. In accommodating ourselves to the changes and turning them to best account, the great difficulty is to disengage ourselves from the past, especially the recent past and take hold of the present, to grapple with its issues, to march up to their lines, and in the contest of ideas to extract the truth and put it to use, practical use.

I hear good men in this convention, doubting the ratification of the constitution to be framed here, because of some, comparatively speaking, little, insignificant matter. God forbid that this feeling should rest in the bosom of any good man in this State. Any man who loves his children, and who wishes to raise honest boys, who wishes to have pure elections and good government, and who wishes to stop this wholesale confession that Alabama is almost in a state of anarchy, by assailing the grand juries and sheriffs of our State, will not hesitate for one moment to do all in his power to accomplish this end. And I hold that no man, saves he who feels that his fate is fixed to be a slave and his children after him are to inherit his condition, such a man has no incentive to use his faculties, except to provide mainly for the wants of his lower nature. He, and he alone, can afford to oppose a constitution which will bring our State to honor and glory.

Now, gentlemen, with pure hands, let us gather together the broken fragments of the grand old temple that our fathers erected, and from these sacred relics rebuild its columns and arches and again raise its proud dome, towering to the skies, to stand in all coming time a fitting memorial of their sikll and patriotism, and an enduring monument to virtues of the illlustrious dead!

Mr. COLEMAN (Greene): Mr. President, the hour is approaching at which we will be required to take a vote, according to the resolution which has been adopted by this convention. There are several gentlemen who desire to place themselves upon record upon this question. I move that the rules be suspended (expressions of dissent.)

The PRESIDENT: The gentleman from Greene will proceed to state his motion.

Mr. COLEMAN (Greene): I move that the rules be suspended and that the vote be taken at 1 o'clock today, and that speakers be limited in their speeches from now until that time to not exceeding ten minutes.

Mr. PILLANS: That requires a suspension of the rules, Mr. President.

The PRESIDENT: The question will be first upon the motion to suspend the rules.

A vote being taken the convention refused to suspend the rules.

Mr. COLEMAN: I regret very much that a number of persons have not had an opportunity to express themselves upon this great question, so that the members of this convention from other portions of the State might have an opportunity to know the sentiments of the people whom they represent. As the rule requires that the vote shall be taken at 12:30, I propose in the mean time to exercise the right, and that which is expected of me, to consume the next ten or fifteen minutes. I do not expect the delegates of this convention to fortify the legal propositions which have been stated before you, which have been discussed with so much ability, and which it seems to me, to any unbiased mind, have been conclusively established. I propose, however, in this short time, which I have, in my own common sense, and commonplace way, to supply some material for argument, if it should be required in the discussion before the people, upon the ratification of this constitution. While the illustration of the delegate from Jefferson was homely, and perhaps beneath the dignity of the subject, inasmuch as it has been commented upon more than once in this convention and carries upon its face that which would deceive or mislead, I will use his homely illustration by way of defining what I understand to be meant by the phrase "You cannot deny or abridge the right of suffrage to any citizen because of his race, color or previous condition." Now if the delegates will remember, the homely illustration was that of the sow and the pigs, making a crack by which the pigs could escape, and the sow would be confined, and he asks you if that was not a discrimination. Of course it was, but the vice of the gentleman's argument was this: He did not state the whole case. The question is, why was the sow confined in the pen, and why were the pigs permitted to run at large? If the sow was confined there because she was a sow, it was a discrimination on account of her race, but if the sow was confined there on account of her vicious habits, it was a discrimination because of her habits, and not because of her race. The proposition presupposes that there was somebody in control of the sow, and I venture to assert that if you will go to the owner and ask him the question, "Why did you confine her in that pen?" he will tell you that it was because of her predatory habits, that she visited the poultry yard or got

into the melon patch, and they were compelled to confine her in the pen. That is a simple illustration of the law. That is what is meant by denying or abridging the right to vote on account of race, color or previous condition; but it makes no difference whether she was a black, razor-back or a red sow. I intended to elaborate these questions somewhat at length, but the gentleman cited from the Stringfellow vs. Ivey case, to show you the danger that when an improper consideration was framed in a law that the whole might be stricken down, and he was even more unfortunate in his illustration. The case of Stringfellow vs. Ivey was this. When a man sells lands, he has a lien upon that land for unpaid purchase money, but no lien upon personal property for the unpaid purchase money. Mr. Stringfellow purchased from Mr. Ivey a piece of land and agreed to pay him so much money and a stock of goods, in a lump sum. Now it not being paid, a bill was filed to enforce the vendor's lien. The courts held that the lien could not be enforced, because the consideration consisted of land and personal property. There had been no agreement as to the value of the land, and the value of the personal property.
and, therefore, the court could not tell how much was due for the land and how much was due for the personal property, but the court held, and have always held, that even though the consideration consisted of a sum if one note had specified how much was to be paid for the land and how much to be paid for the personal property, the courts would have upheld that for the land, and discarded that which was for the personal property. I mention this to show you that in the writing of this section under consideration, we have carefully guarded against every legal danger of having the law stricken down. I desire to simply call your attention to the law upon this subject. When part of a statute is unconstitutional, if that which remains is complete within itself, and capable of being executed in accordance with the apparent legislative intent wholly in accord with that which is rejected, it must be sustained (65) Ala.). Now, those gentlemen admit that the understanding clause, as we will designate it, is constitutional. They admit that the soldiers' clause is constitutional. This proposition says that if that be true, that even though you strike out the descendant clause, the whole of the remainder of the fabric would stand, and be sustained by the courts. I do not make this argument because of any apprehension that any part is unconstitutional, but simply to show you the falsity of the argument they have presented. There is not a proposition adduced here to sustain them. They have been overthrown by argument, and even upon these simple

propositions they relied on so much there is not a decision or principle of law that sustains them. I will read you only one more line, and that is upon what courts have declared to be the law where you deny the right of suffrage upon the ground of race, color or previous condition. I say it is one which may be exercised to the full limit if the abridgement is made not on the point of race, but upon the point of characteristics of the parties excluded. Here is the case: 170 U. S.—the last opinion upon this subject. This is the Mississippi case. The court says: "Restrained by the Federal Constitution from discriminating against the negro race" (that is the Mississippi Convention) "discriminates against its characteristics, and the offences to which its criminal members are prone." No exception is made to it. "But nothing tangible can be adduced from this," says the court. If weakness were to be taken advantage of, it was to be done "within the field of permissible action under the limitations imposed by the Federal Constitution." Could anything be plainer than that? "And the means of it were the alleged characteristics of the negro race, not the administration of the law by officers of the State." I do not see, delegates, what may be said in addition to what has been said. The whole argument that the constitution is in danger if any part of it should be declared null and void is without any support either by authority or reason. When you say you put a standard to which the negro cannot attain, and our legislation is confined to
97 his characteristics—and it is certainly confined there—the very latest exposition of the Supreme Court of the United States sustains us in that position. But the gentleman has cried "fraud." I will ask him to rise in his seat if he is here, and tell me what court, and at what time a court has ever declared a statute to be void on account of fraud, much less the organic law of a State. Fraud enters into transactions between parties, but you heard the principle discussed here time and again in regard to the Shelby County case, that they had no relief, because the statute could not be attacked as fraudulent, and by your vote that proposition was sustained, and I assure the delegates of the convention, as a proposition of law, it is sound. The apparation that they are trying to draw up here melts away in air when it is exposed to the light of the decisions and principles of law so long established in this country. I do not know what to say, gentlemen. The honorable delegate from Jefferson County has told you that he was one who took a solemn oath before high heaven that the white man should rule, and we have heard the delegate from Montgomery County complain that the acts of the kuklux were not sufficient to satisfy him, and that he

time and again in order that the elections might be carried, even by fraud, encouraged the managers. And yet an officer upon whom high honors were conferred, and he, time and again—and I class my friend sitting there in the same category (applause), whose consciences are disturbed by the provision that we must support the Constitution of the United States and, therefore they cannot see their way celar to vote for the report of the committee. I have read, and I don't say it with any purpose of disparagement, of a certain class of people of whom it was said that they would "strain at a gnat but could swallow a camel." I do not know what more could be said to convince these men. We do know that on a certain occasion a man was found in a very hot place, and he desired that he might be sent back to earth, that he had five brethren there to tell of the place, but he was told that if they did not believe what they had heard, they would not believe though one came from the dead. (Applause.) The Good Book tells us there were five brethren. I wish there were only five here; but I can count four of the minority report, and I count my friend over there, and on the same side is the delegate from St. Clair County, who, in this convention, said that one of the brightest stars in the crown was the Fifteenth Amendment. I do not know how they will like that kind of company. (Applause.) I was shocked to hear a man claiming pride in being a white man, say that he regarded the Fifteenth Amendment as one of the brightest jewels in the crown, or one of the brightest something, that was pinned to the constitution—I don't remember exactly the language now. After hearing him say that, fellow delegates, I was not surprised to hear him afterwards say that he feared neither man, hell nor the devil. If there was no other reason for calling this convention here, and no other reason for ratifying this constitution, it would be sufficient for me to work for it in order that so many of his constituents minght be elimniated from the suffrage plank as to retire the gentleman entertaining those sentiments. And I hope those living in that community will preserve the record of the man who could endorse the Fifteenth Amendment in Alabama in view of all that we have gone through. I will not express my opinion of him. (Applause.) Mr. President, I believe as strongly as I stand here, not only the fraud, the violence, the bloodshed, but I believe not one of our fair women has even been assaulted in this land but that the infamous act may be traced to the Fifteenth Amendment. And I feel shocked as I remember that only a few weeks ago, a fair young lady in the gentleman's own county was the victim of an assault from one of these black fiends. That is my opinion of one of the effects of the Fifteenth

Amendment. I wish that I had time. The gentlemen from Pike, sitting over there, had his speech read here, in which he stated that Senator Morgan and Senator Pettus held that this provision was unconstitutional. I say that he cannot find one line in anything that they have said, or written which sustains him in that proposition. On the contrary, it has been expressly admitted by one that it was constitutional, in a public speech, and he has never retracted it. I take this occasion to say to this convention, that no longer than yesterday, the senior Senator, General Pettus, told me out of his own mouth that "When you met, I did not see how you were going to keep the Democratic pledge and not violate the constitution," but he says, "I assure you that you have performed the difficult task." And he told me, Mr. President, if it was necessary, he would not only support this clause that we have under consideration now, but if necessary he would go into the country upon it. I wish to read a short extract from a letter of Senator Morgan. The gentleman who has the letter is within the halls of this convention, but has not had the opportunity to address you. "The counting of the electoral vote of Louisiana and Mississippi is a silent admission of immense value with reference to the power of the State to regulate the negro vote." Think of that! Mississippi and Louisiana have already been counted—and that was the last we have heard from Senator Morgan. I am sure that the gentleman from Barbour——

Mr. LOWE (Jefferson): Will the gentleman yield for a moment?

Mr COLEMAN: I haven't much time—

Mr. LOWE: I just wanted to move to extend the gentleman's time indefinitely.

Mr. LOWE (Jefferson): Will the gentleman yield a moment?

Mr COLEMAN (Greene): I am nearly through.

Mr. LOWE (Jefferson): I move that the gentleman's time be extended indefinitely.

Mr COLEMAN (Greene): I will not accept it after the action of the convention. I am not so eloquent or as interesting as many of those who have gone before me, but I am stating facts that may go before the people to satisfy them, and to correct errors which have been made here upon this floor. There sits the delegate from Barbour (Mr. Merrill) perhaps as intimate with Senator Pugh as anybody upon this floor or elsewhere, and I speak by his authority, as he has not had an opportunity to address you, that Senator Pugh finds no fault with this clause enfranchising the soldier and his descendants.

I thank you, gentleman. My time has expired. I have had no opportunity to deliver the argument intended, but I have given you in a common way this statement of facts and illustrations, which I think will enable the common people to better understand the questions which will arise before them.

Mr. LOWE (Jefferson): If the gentleman will yield a moment, I would like to move that his time be extended, inasmuch as the time of those who have preceded him has been extended.

The PRESIDENT: The chair will state for the information of the gentleman from Jefferson that the gentleman from Greene himself submitted a motion that the time for taking this vote be extended,——

Mr. LOWE (Jefferson): I am not speaking of the time for taking of the vote, but in order for the gentleman to conclude his remarks I move that his time be extended.

Mr. COLEMAN (Greene): I do not desire it, and shall not accept it.

The PRESIDENT: The chair will state that under the resolution offered by the gentleman from Jackson, as amended by the resolution offered by the gentleman from Jefferson, that the present order will be the taking of the vote. It is equivalent to ordering the previous question and the question will be upon the amendment offered by the minority of the committee.

Mr. LOWE (Jefferson): I move a suspension of the rules, in order that the gentleman from Greene may conclude his remarks.

Mr. REESE: Will not the gentleman from Greene, the chairman of the committee, if it is equivalent to calling the previous question, not have the right to conclude the argument?

The PRESIDENT: The question will be upon the adoption of the amendment.

Mr. SAMFORD (Pike): At the inception of this debate I offered an amendment striking out the last few words in the last line of the first clause. I have become convinced that the amendment ought not to be made at that place, if at all. I therefore ask unanimous consent of this convention to be permitted to withdraw that amendment.

The PRESIDENT: The gentleman from Pike asks unanimous leave to withdraw his amendment, is there objection?

There being no objection made, the amendment was withdrawn.

The PRESIDENT: The question will be upon the adoption of the amendment offered by the minority of the committee.

Mr. ROBINSON (Chambers): I move to lay the amendment embodied in the report of the minority of the committee upon the table.

Mr. COLEMAN (Greene): Upon that I call for the ayes and noes.

The call for the ayes and noes was sustained.

The PRESIDENT: The question will be upon the adoption of the amendment offered by the minority of the commtitee. The minority report moves to strike out subdivision 2 of Section 4 of the report of the majority. It is now moved to lay the amendment offered by the minority of the committee upon the table. As many as favor tabling the report of the minority will say aye, and those opposed no, as their names are called.

Upon the call of the roll, the vote resulted as follows:

Filed September 3, 1902.

J. W. DIMMICK,
Clerk.

98 *Summons in Equity.*

UNITED STATES OF AMERICA,
Middle District of Alabama.

JACKSON W. GILES, Complainant,
and
E. JEFF HARRIS, WILLIAM A. GUNTER, JR., CHAS. B. TEASLEY, Defendants. } In Equity.

The President of the United States of America to E. Jeff Harris, William A. Gunter, Jr., and Chas. B. Teasley, who are citizens of the State of Alabama, Greeting:

You are hereby commanded and strictly enjoined, that laying all other matters aside, and notwithstanding any other excuse, you and each of you personally be and appear before the judge of the circuit court of the United States for the middle district of Alabama, at the clerk's office in the said court in the city of Montgomery, at rules to be had on the first Monday in October next, to answer a bill of complaint exhibited against you in said court by Jackson W. Giles who is citizen of the State of Alabama and to do further and receive what the said court shall have considered in that behalf, and this you are not to omit under the penalty on you and each of you of two hundred and fifty dollars. And have there then this writ.

To the marshal of the United States for the middle district of Alabama, to execute.

Witness, the Hon. Melville W. Fuller, Chief Justice of the Supreme Court of the United States, on the 3rd day of September in the year of our Lord one thousand nine hundred and two and of the Inde-

pendence of the United States of America the one hundred and 27th.

J. W. DIMMICK,
Clerk U. S. Circuit Court for the Mid. Dist. of Alabama.

WILFORD H. SMITH,
Complainant's Solicitor.

NOTE.—The defendants are required and hereby notified to enter appearance in the above-entitled cause, in the clerk's office of said court, on or before the rule day next ensuing, to wit, the 6th day of October, 1902, or the bill may be taken *pro confesso* against them.

J. W. DIMMICK, *Clerk.*

WILFORD H. SMITH,
Complainant's Solicitor.

We hereby acknowledge copy of within summons and waive further service.

GUNTER & GUNTER,
For All Defendants.

Sept. 15, 1902.

Filed Sept. 15, 1902.

J. W. DIMMICK, *Clerk.*

99 UNITED STATES OF AMERICA :

In the Circuit Court of the United States for the Middle District of Alabama.

JACKSON W. GILES, Complainant,
and
E. JEFF HARRIS ET ALS., Defendants.
} No. 234. In Equity. Precept for Appearance.

The clerk of the court will please enter our appearance as solicitors for the defendants E. Jeff Harris, Wm. A. Gunter, Jr., and Chas. B. Teasley.

Dated at Montgomery, Ala. Oct. 6th, 1902.

GUNTER & GUNTER,
CHAS. G. BROWN,
Solicitors for Defendants.

In the Circuit Court of the United States for the Middle District of Alabama.

JACKSON W. GILES, Complainant,
and
E. JEFF HARRIS and Others, Defendants.
} In Equity. Order for Appearance.

On filing precept in this cause under rules and on motion of Gunter & Gunter and Chas. G. Brown,

Ordered, that their appearance as solicitors for defendants E. Jeff Harris, Wm. A. Gunter, Jr. and Chas. B. Teasley herein be and the same is hereby entered, and that the cause be now docketed for the defendants.

Witness the Hon. Melville W. Fuller, Chief Justice of the Supreme Court of the United States at Montgomery, Ala. this 6th day of October, 1902.

J. W. DIMMICK,
Clerk U. S. Cir. Ct., Mid. Dist. of Ala.

Filed Oct. 6, 1902.

J. W. DIMMICK, *Clerk.*

100 In the Circuit Court of the United States in and for the Middle District of Ala.

JACKSON W. GILES, Pl't'ff,
v.
E. JEFF HARRIS, W. A. GUNTER, JR., and CHAS. B. Teasley, Board of Registrars of Montgomery County, Ala., Def'ts. } No. 234.

Joint demurrer of E. Jeff Harris, Wm. A. Gunter, Jr., and Chas. B. Teasley, the defendants above named, to the bill of complaint of Jackson W. Giles, the above-named plaintiff.

These defendants respectively, by protestation, not confessing or acknowledging all or any of the matters or things in the said plaintiff's bill to be true in such manner or form as the same are therein set forth and alleged, demur thereto and for cause of demurrer show:

1. That it appears in and by said bill that the subject of the suit of the plaintiff is not within the jurisdiction of this court.

2. That the said bill does not show that the plaintiff therein has been injured as to any matter or thing within the cognizance of a court of equity.

3. That the said bill shows that the said complainant has or may have a plain, adequate and complete remedy for the injuries complained of or threatened in his said bill in the courts of the State of Alabama, and that it could not be assumed that the State courts will not discharge their duties with respect to the rights of complainant when their jurisdiction is properly invoked.

4. That the said bill is a *quia timet* proceeding, founded upon mere fears of the complainant that the administration of State laws will not be judicially enforced in the proper spirit, and invokes the interference by this court in the internal affairs and management by the State of Alabama of its government within the limits of the Constitution of the United States, and would in effect be a government on the part of the Federal courts by injunction of the affairs of the State.

5. That the said plaintiff has not in and by his said bill made or stated any such cause as doth or ought to entitle him to such relief as is thereby sought and prayed for from and against these defendants.

Wherefore, and for divers other good causes of demurrer appearing in said bill, these defendants demur thereto, and humbly
101 demand the judgment of this court whether they shall be compelled to make any further or other answer to said bill, and pray to be dismissed with their charges in this behalf most wrongfully sustained.

GUNTER & GUNTER,
CHARLES G. BROWN,
Att'y Gen'l of State of Ala., Defendants' Attorneys.

Verification of Demurrer.

Comes the complainant and waives the oath of the defendants to the above demurrer that the same is not interposed for delay, and that the same is true in point of fact.

WILFORD H. SMITH,
Solicitor for Complainant.

Certificate of Counsel.

I hereby certify that in my opinion the foregoing demurrer is well founded in point of law.

W. A. GUNTER,
Of Counsel for Def'ts.

Filed October 11, 1902.

J. W. DIMMICK, *Clerk.*

Decree Sustaining Demurrers and Dismissing Bill.

In the Circuit Court of the United States for the Middle District of Alabama.

JACKSON W. GILES
v.
E. JEFF HARRIS ET ALS.

This cause coming on to be heard this day, was argued and submitted for decision upon the demurrers of the defendants to the bill of complaint, and upon consideration thereof, it is ordered, adjudged and decreed that the grounds of demurrer No. 1, 2 and 5 which go to the jurisdiction of the court are well taken, and the said demurrer is, therefore, sustained; and the plaintiff, in open court, after opportunity allowed, declining to amend his bill, it is ordered, adjudged and decreed that said bill be dismissed out of this court for want of jurisdiction to entertain said bill, and that as the court is without jurisdiction, no costs be allowed.

Done in open court this the 11th day of October, 1902.

THOS. G. JONES, *Judge.*

Filed October 11, 1902.

J. W. DIMMICK, *Clerk.*

102 In the Circuit Court of the United States for the Middle District of Alabama.

JACKSON W. GILES, Complainant,
against
E. JEFF HARRIS, WILLIAM A. GUNTER, Junior, and Charles B. Teasley, Board of Registrars of Montgomery County, Alabama, Defendants. } Petition for Appeal.

The above-named complainant, Jackson W. Giles, conceiving himself ag-rieved by the order entered on the 11th day of October, 1902, sustaining the demurrer to his bill, and dismissing the same, in the above-entitled proceedings, doth hereby appeal from said order to the Supreme Court of the United States, and he prays that his appeal may be allowed, and that the transcript of the record and proceedings and papers upon which said order was made, duly authenticated, may be sent to the Supreme Court of the United States.

WILFORD H. SMITH,
Attorney for Complainant.

And now, to wit, on the 11th day of October, 1902, it is ordered, that the appeal be allowed as prayed for in the above-entitled case.

THOS. G. JONES,
Circuit Judge.

Filed October 11th, 1902.

J. W. DIMMICK, *Clerk.*

In the Circuit Court of the United States for the Middle District of Alabama.

JACKSON W. GILES, Complainant,
against
E. JEFF HARRIS, WILLIAM A. GUNTER, Junior, and Charles B. Teasley, Board of Registrars of Montgomery County, Alabama, Defendants. } Assignment of Errors.

Afterwards, to wit, on the 11th day of October, 1902, in the circuit court of the United States for the middle district of Alabama, comes the said Jackson W. Giles by Wilford H. Smith his solicitor, and says that in the record of proceedings in the above-entitled matter there is manifest error in this to wit:

I.

103 The court erred in sustaining the demurrer and dismissing the bill of complaint, for want of jurisdiction, and for the want of equity in the bill.

Because the bill shows that the suffrage provisions of the constitution of Alabama, under and by virtue of which the defendant board of registrars are appointed and acting, are in direct contra-

vention of the 14th and 15th amendments to the Constitution of the United States, in their purpose, language, operation and administration; and that the said defendants who are charged with the enforcement of said provisions of the constitution of Alabama, have attempted and are about to deprive the complainant and his race, of the equal protection of the law, and of their right to vote in the approaching State and Federal election in November 1902, for no other reason than their race and color, and previous condition of servitude, unless restrained by injunction; and prays to have said suffrage provisions declared null and void, and for relief against the threatened and impending irreparable wrong and deprivation of their civil rights guaranteed by the 14th and 15th amendments to the Constitution of the United States.

Wherefore, the said Jackson W. Giles prays that the order of the said circuit court of the United States for the middle district of Alabama be reversed, and that said circuit court of the United States for the middle district of Alabama be ordered to grant the relief prayed for in the above-entitled cause.

WILFORD H. SMITH,
Solicitor for Complainant.

Filed October 11th, 1902.

J. W. DIMMICK, *Clerk.*

In the Circuit Court of the United States for the Middle District of Alabama.

JACKSON W. GILES, Complainant,
against
E. JEFF HARRIS, WILLIAM A. GUNTER, JUNIOR, and Charles B. Teasley, Board of Registrars, Montgomery County, Alabama, Defendants. } Security Bond.

Know all men by these presents, that we, Jackson W. Giles, and Nathan Alexander, J. W. Adams, V. H. Tulane and N. P. Hatcher, all of the city of Montgomery, and county of Montgomery, Alabama,
are held and firmly bound unto the above-named E. Jeff
104 Harris, William A. Gunter, Junior, and Charles B. Teasley,
board of registrars of Montgomery county, Alabama, in the sum of five hundred ($500.00) dollars, to be paid to the said E. Jeff Harris, William A. Gunter, Junior, and Charles B. Teasley, board of registrars of Montgomery county, Alabama, for the payment of which well and truly to be made, we bind ourselves, and each of us, ourselves and each of our heirs, executors and administrators, jointly and severally, firmly, by these presents.

Sealed with our seals and dated this the 11th day of October, 1902.

Whereas, the above-named Jackson W. Giled has prosecuted an appeal to the Supreme Court of the United States, to reverse the decree rendered in the above-entitled suit — the circuit court of the United States for the middle district of Alabama;

Now therefore, the condition of this obligation is such, that if the above-named Jackson W. Giles shall prosecute said appeal to effect and answer all costs, if he fail to make said appeal good, then this

obligation shall be void, otherwise, the same shall be and remain in full force and virtue.

JACKSON W. GILES.
NATHAN H. ALEXANDER.
J. W. ADAMS.
V. H. TULANE.
N. P. HATCHER.

Sealed and delivered and taken and acknowledged this 11th of October, 1902, and approved.

THOS. G. JONES, *Judge.*

Filed October 11, 1902.

J. W. DIMMICK, *Clerk.*

Citation on Appeal.

UNITED STATES OF AMERICA, *ss:*

To E. Jeff Harris, William A. Gunter, Junior, and Charles B. Teasley, board of registrars of Montgomery county, Alabama, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at Washington, on the second Monday of November, 1902, pursuant to an appeal, filed in the clerk's office of the circuit court of the United States for the middle district of Alabama, wherein Jackson W. Giles is appellant and E. Jeff Harris, William A. Gunter, Junior, and Charles B. Teasley, board of registrars of Montgomery county, Alabama, are respondents, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties on that behalf.

Witness the Hon. Melville W. Fuller, Chief Justice of the United States, this 11th day of October, 1902.

THOS. G. JONES,
Circuit Judge.

Service accepted.
GUNTER & GUNTER,
Att'ys for Defendants.

Oct. 11, 1902.

Filed October 11th, 1902.

J. W. DIMMICK, *Clerk.*

105 In the Circuit Court of the United States for the Middle District of Alabama.

JACKSON W. GILES
v.
E. JEFF HARRIS ET ALS. } In Equity. No. 234.

A final decree having been entered herein on the 11th day of October, 1902, dismissing the bill for want of jurisdiction to entertain

it,—now, therefore, this court in pursuance of the fifth section of the act of Congress, approved March 3rd, 1891, entitled "An act to establish circuit courts of appeal and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes,"—hereby certify to the honorable, the Supreme Court of the United States, for decision, the question of jurisdiction alone of this court over this cause, and whether the case made by the bill of complaint and the demurrers presents a controversy over which this court has jurisdiction under the Constitution or laws of the United States. The only question considered and decided by the court in dismissing the bill of complaint was, whether upon the bill and demurrer thereto a case is presented of which this court has jurisdiction under the Constitution or laws of the United States.

In testimony whereof, I, Thos. G. Jones, judge of the United States district court for the middle district of Alabama, and presiding in the circuit court of the United States for the middle district of Alabama on the trial of said cause, have signed and sealed this certificate, and being without an official seal, have caused said certificate to be attested by the seal of the circuit court of the United States for the middle district of Alabama. This 13th day of October, 1902, and in term time.

[SEAL.] THOS. G. JONES,
Judge Presiding in the Trial of the Above Cause in the Circuit Court of the United States for the Middle District of Alabama.

Filed October 13th, 1902.

J. W. DIMMICK, *Clerk.*

106 UNITED STATES OF AMERICA, } *ss:*
Middle District of Alabama, }

I, J. W. Dimmick, clerk of the circuit court of the United States for the middle district of Alabama, hereby certify the foregoing pages numbered from one to 105, both inclusive, do contain a full, true and complete transcript of the record and proceedings in a cause lately depending in said court, wherein Jackson W. Giles was complainant and E. Jeff Harris, William A. Gunter, Jr., and Charles B. Teasley, were defendants, as the same remains on file and of record in my office as such clerk.

In testimony whereof I have hereunto set my hand and caused the seal of said court to be affixed at Montgomery, in said district, this the 28th day of October, A. D. 1902.

{ Seal of the United States Circuit Court, Middle District of Alabama. }

J. W. DIMMICK, *Clerk.*

Endorsed on cover: File No. 18721. M. Alabama C. C. U. S. Term No. 493. Jackson W. Giles, appellant, *vs.* E. Jeff Harris, William A. Gunter, Jr., & Charles B. Teasley, board of registrars of Montgomery county, Alabama. Filed October 31st, 1902.

Office Supreme Court U. S.
FILED
NOV 6 1902
JAMES H. McKENNEY,
Clerk.

Supreme Court of the United States.

OCTOBER TERM, 1902.

No. 493.

JACKSON W. GILES, APPELLANT,

vs.

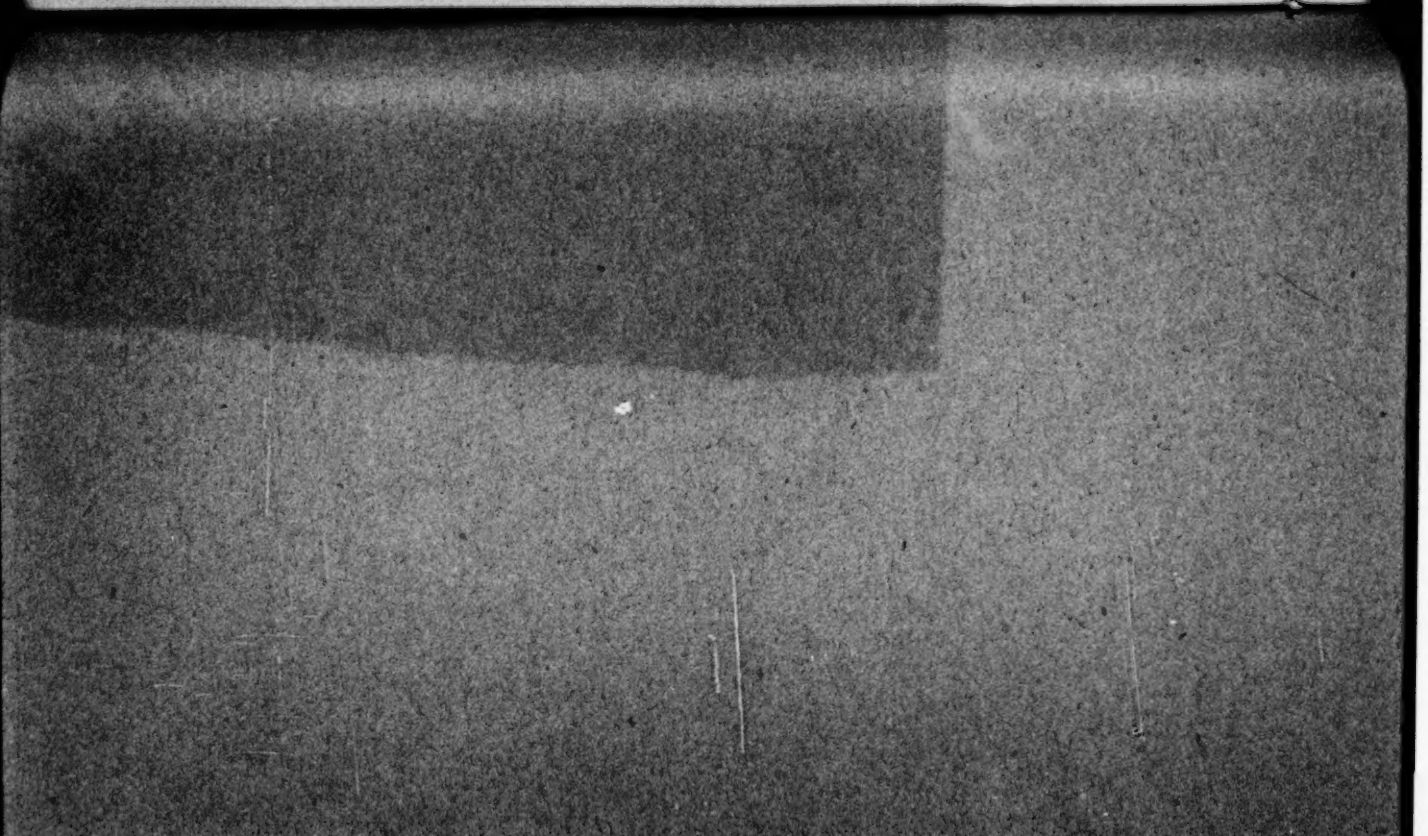
E. JEFF. HARRIS ET AL., BOARD OF REGISTRARS OF MONTGOMERY COUNTY, ALABAMA.

MOTION TO ADVANCE.

WILFORD H. SMITH,
Counsel for Appellant.

(18,721.)

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C. 1902



Supreme Court of the United States.

OCTOBER TERM, 1902.

No. 493.

JACKSON W. GILES, APPELLANT,

against

E. JEFF HARRIS ET AL., BOARD OF REGISTRARS, MONTGOMERY COUNTY, ALABAMA.

MOTION TO ADVANCE.

And now comes the appellant, by his counsel appearing in that behalf, and moves the court to advance said cause to an early and speedy hearing for the following reasons, to wit:

First. Because the only question involved in the case is that of jurisdiction and whether or not it is one of equitable cognizance.

Second. Because the question of jurisdiction has been certified to this court by the judge of the circuit court.

BRIEF STATEMENT OF FACTS.

The appellant, who is a negro, filed a bill in equity in the United States circuit court for the middle district of Alabama, alleging that the suffrage provisions of the new constitution of Alabama were obnoxious and repugnant to the fourteenth and fifteenth amendments to the Constitution of the United States in their intent and purpose and in their language and meaning, as well as by their operation and administration, and in effect as well as in fact deprived him and his race of the equal protection of the law and of their right to vote for no other reason than their race and color and previous condition of servitude.

And that the said appellees, who were charged with the administration of said suffrage provisions, had refused to register appellant and issue to him a certificate of qualification as an elector in the State of Alabama for no other reason than his race and color, and had also refused to register more than five thousand (5,000) colored persons in Montgomery county, Alabama, who were qualified under the law of the State of Alabama and of the United States, for no other reason than their race and color, and that by such acts on the part of said appellees the appellant and his race were about to be deprived of their right to vote for State and Federal offices in the election to take place on November 4, 1902, for no other reason than their race and color and previous condition of servitude, while all the white men in the State of Alabama were registered and given certificates of qualification and will be allowed to vote in said coming election, and prayed that said suffrage provisions of the new constitution of Alabama be declared null and void, and

that said appellees be enjoined from enforcing the same or from doing any act in the premises which would deprive appellant and his race of their right to vote in said approaching election on account of their race and color and previous condition of servitude.

That said appellees demurred to said bill, setting up the want of jurisdiction of the court and the want of equity in the bill and other grounds, and that when the same came on to hearing said court sustained the demurrer and dismissed the bill on the ground of want of jurisdiction and want of equity, and certified the question of jurisdiction to this court under the act of March 3, 1891.

OBJECT OF THE MOTION.

The question involved in this case is entirely new as to the manner of procedure and is of general interest to the public, in that it will bring in review the new constitutions of nearly all the Southern States that have similar suffrage provisions. The object of the motion is to have these questions determined by this court as early as possible.

WILFORD H. SMITH,
Counsel for Appellant.

IN THE SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1902.

Number 493.

To Messrs. GUNTER & GUNTER and
Hon. CHARLES G. BROWN,
Attorney General of the State of Alabama,
Counsel for Appellees, Montgomery, Alabama:

Please take notice that on Monday, the 10th day of November, 1902, at the opening of the court, or as soon thereafter as counsel can be heard, the motion of which the foregoing is a copy will be submitted to the Supreme Court of the United States for the decision of the said court thereon.

WILFORD H. SMITH,
Counsel for Appellant.

STATE OF NEW YORK, }
City and County of New York, } ss:

Wilford H. Smith, being duly sworn, makes affidavit that on the 5th day of November, 1902, he deposited in the mail a true copy of the above notice and motion, properly addressed to Gunter & Gunter, attorneys, and Hon. Charles G. Brown, attorney general of the State of Alabama, counsel for appellees, at Montgomery, in the State of Alabama, and with the postage prepaid thereon, and that in due course of mail the same would reach them in forty-eight hours after mailing.

WILFORD H. SMITH.

Sworn to and subscribed before me this 5th day of November, 1902.

[SEAL.] HARRY A. ANDERSON,
Notary Public for Westchester County.

Certificate filed in New York county.

[Endorsed:] File No., 18,721. Supreme Court U. S., October term, 1902. Term No., 493. Jackson W. Giles, app't, *vs.* E. Jeff Harris *et al.* Motion to advance, notice, and proof of service. Filed Nov. 6th, 1902.

Supreme Court of the United States.

OCTOBER TERM, 1902.

No. 493.

JACKSON W. GILES, APPELLANT,

against

E. JEFF HARRIS ET AL., BOARD OF REGISTRARS, MONTGOMERY COUNTY, ALABAMA, APPELLEES.

BRIEF FOR APPELLANT.

STATEMENT OF THE CASE.

The appellant, who is a negro, filed a bill in equity in the United States circuit court for the middle district of Alabama, alleging that the suffrage provisions of the new constitution of Alabama which went into effect November 28, 1901, were obnoxious and repugnant to the fourteenth and fifteenth amendments to the Constitution of the United States in their intent and purpose and in their language and meaning, as well as by their operation and administration, and, in effect as well as in fact, deprived him and his race of the equal protection of the law and of their right to vote for no other reason than their race and color and previous condition of servitude.

And that the said appellees, who were charged with the administration of said suffrage provisions, had refused to register appellant and issue to him a certificate of qualification as an elector in the State of Alabama for no other reason than his race and color, and had also refused to register more than five thousand (5,000) colored persons in Montgomery county, Alabama, who were qualified under the law of the State of Alabama and of the United States, for no other reason than their race and color, and that by such acts on the part of said appellees the appellant and his race were about to be deprived of their right to vote for State and Federal offices in the election to take place on November 4, 1902, for no other reason than their race and color and previous condition of servitude, while all the white men in the State of Alabama were registered and given certificates of qualification and will be allowed to vote in said coming election, and prayed that said suffrage provisions of the new constitution of Alabama be declared null and void, and that said appellees be enjoined from enforcing the same or from doing any act in the premises which would deprive appellant and his race of their right to vote in said approaching election on account of their race and color and previous condition of servitude.

That said appellees demurred to said bill, setting up the want of jurisdiction of the court and the want of equity in the bill and other grounds, and that when the same came on to hearing said court sustained the demurrer and dismissed the bill on the ground of want of jurisdiction and want of equity, and certified the question of jurisdiction to this court under the act of March 3, 1891.

SPECIFICATION OF ERRORS.

FIRST. The court erred in sustaining the demurrer and dismissing the bill when the bill alleged facts showing that the suffrage provisions of the constitution of Alabama under and by virtue of which the appellees were appointed and acting were in direct contravention of the fourteenth and fifteenth amendments to the Constitution of the United States in their purpose and language and in the way and manner in which they were carried out and administered by the appellees and all the other boards of registrars in the State of Alabama.

SECOND. Because the court erred in sustaining the demurrer and dismissing the bill on the ground that it was not such a case of which a court of equity could take cognizance when the bill alleged that appellant was threatened with irreparable wrong, and was about to be deprived of the equal protection of the law and of his right to vote because of his race and color, in contravention of the guarantees of the fourteenth and fifteenth amendments to the Constitution of the United States.

THIRD. Because the court erred in sustaining the demurrer and dismissing the bill on the ground of the want of jurisdiction to grant the relief prayed for.

ARGUMENT.

The facts alleged in the bill of complaint having been admitted by the demurrer, the only question presented for the court's consideration is, does the bill contain sufficient allegations of matters of fact to raise a Federal question, and, if so, whether the trial court under the law had the power and authority to grant the relief prayed for. We contend that the suffrage provisions of the constitution of Alabama are not only unconstitutional and void, but, in view of the object and purpose of calling the constitutional convention of Alabama, expressed in the opening speech of its president, Hon. John B. Knox, shown in "Exhibit A," and in view of the bitter speeches delivered on the floor of the convention, wholly directed against the negroes of Alabama and the fifteenth amendment to the Constitution of the United States, shown in "Exhibit C," and the published reports of the proceedings of the registrars throughout the State of Alabama, showing the manner of the administration of the suffrage provisions of the constitution of Alabama, shown in "Exhibit B," a more high-handed and flagrant case of the nullification of the fourteenth and fifteenth amendments to the Constitution of the United States and repudiation of their solemn guarantees to the negroes of America can never be presented to the courts of the country.

We call the court's attention to the tabulated census report (Record, page 8), which indicates the suppression of the negro majorities in more than twenty (20) counties of Alabama, and the fact that the convention was wholly composed of white men, so that the court may understand fully the

meaning of the speeches in the convention, in which it is openly declared that the negro majorities in the State of Alabama had been overcome by fraud and intimidation for twenty years, and that the provisions of the new constitution were to take the place of fraudulent methods and intimidation in the government of that Commonwealth.

If the suffrage provisions of the constitution of Alabama bore equally upon the whites and blacks alike, no matter what the standard of property or education required might be, no cause of complaint would be urged here against them; but they sought to restrict the suffrage of the blacks without depriving a single white man of his right to vote.

Our contention is, that while the fourteenth and fifteenth amendments do not confer the right of suffrage upon the negro, they contain a solemn guarantee of this nation that no State shall give any preference in this particular to the white citizens over the blacks, or deny the negroes the right to vote, or hinder them in the exercise of the same, because of their race and color and previous condition of servitude, and that it is clearly within the equity jurisdiction of the courts of the United States to enforce this solemn guarantee. In support of our contention we submit the following *propositions and points of argument:*

I.

Section 1979 of the Revised Statutes of the United States, which was brought forward from the act of April 20, 1871, entitled "An act to enforce the provisions of the fourteenth amendment to the Constitution of the United States, and for other purposes," provides "that every person who under color of any statute, ordinance, regulation, custom, or usage of

any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof, to the deprivation of any rights, privileges, or the immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress," and manifestly confers jurisdiction upon courts of equity to grant relief against the threatened deprivation of rights guaranteed under the fourteenth and fifteenth amendments. (See section 629, Revised Statutes of the United States, clause 16.)

Holt *vs.* Indiana Manufacturing Co., 176 U. S., 68.

II.

This is not a suit brought to enforce a political right, but a civil right guaranteed by the Constitution of the United States. Nor is it sought in this action to control the exercise of any political functions of the State of Alabama, since no State has the right, nor has its officers the right, to deprive any person of the equal protection of the law, or of his right to vote, on account of his race and color or previous condition of servitude.

United States *vs.* Reese, 92 U. S., 214.

Mills *vs.* Green, 69th Federal Rep., 852.

United States *vs.* Cruikshank, 92 U. S., 542.

III.

The courts of law are without power to give that efficacious and specific redress in the matter of the enforcement and protection of the rights guaranteed under the fifteenth amendment, because it would be absurd to argue that any

money damage, however large, could in the least degree compensate a negro in Alabama for the deprivation of his right to vote on account of his race and color. Such a deprivation by constitutional enactment, on such a ground, means infinitely more to him than to a white man, when, under ordinary circumstances and for once, a white man may be refused the exercise of that right, and brings him back to the sad conditions of the past, when he had no rights under the Constitution of the United States which a white man was bound to respect. To the negro, if the guarantees of the fourteenth and fifteenth amendments are stricken from under him, under the pretense of the want of jurisdiction in the courts of the United States to enforce them, he has only one other guarantee between him and actual slavery; that is the one contained in the thirteenth amendment. What reason would he have to hope for protection under that one, should the Southern States by similar methods undertake to deprive him of its guarantee?

Moreover, it is perfectly plain that the suffrage provisions of the new constitution of Alabama were skillfully and artfully drawn, not only to evade the fourteenth and fifteenth amendments to the Constitution of the United States, but to elude and escape the power and detection of the courts. This is shown in the temporary plan, where the officers chosen to administer which are made to go out of office at the end of 1902, before any decision can be had in the courts of last resort, and in providing no officers to administer and enforce the permanent plan, which is to go into effect the first day of January, 1903, and in the pretended right of appeal given in section 186.

Therefore we submit that a court of equity, exercising its

remedial principles of specific redress, with its ability to look through forms at the substance and its power to detect and expose fraud and conspiracy and cunning and chicanery, can alone grant that relief without which there would be no relief in a case like this. Equity alone has the power to anticipate and prevent a threatened injury where the damage would be insufficient or the wrong irreparable.

Ex parte Lennon, 166 U. S., 548.

Vicksburg Water Works Co. *vs.* Vicksburg, 185 U. S., 65.

IV.

If the court agree with me that the circuit courts of the United States, sitting in equity, have jurisdiction to enforce and protect the civil rights of a citizen guaranteed by the fourteenth and fifteenth amendments, then we further contend that this court is not confined to the decision of the question of jurisdiction alone, but should also decide the further question of whether or not the suffrage provisions of the constitution of Alabama are in contravention of the fourteenth and fifteenth articles of the Constitution of the United States.

In our opinion, the act of March 3, 1891, section 5, while it gives the circuit court the right to certify the jurisdiction alone to the Supreme Court, does not give the circuit court the right by such certification to cut the Supreme Court off from considering other questions which could properly come up on appeal from the circuit court. Under said section 5 any case in which the constitution or law of a State is claimed to be in contravention of the Constitution of

the United States must come directly to the Supreme Court from the circuit court without any certification from the circuit court. And why should the circuit court be allowed to prevent such a case from being considered and passed upon by this court by simply certifying the question of jurisdiction? The question of the constitutionality of a State constitution was the principal matter presented to the circuit court for decision, and the bill of complaint being dismissed on demurrer, an appeal from that ruling brings the whole case before this court for decision, notwithstanding the certification of the question of jurisdiction by the circuit court.

The language of Mr. Justice Lamar in MacLish *vs.* Roff, 141 U. S., 661, seems to be perfectly pertinent here. He says: "From the very foundation of our judicial system, the object and policy of acts of Congress in relation to appeals and writs of error have been to save the expense and delays of repeated appeals in the same suit, and to have the whole case and every matter in controversy decided in a single appeal."

Horner *vs.* United States, 143 U. S., 578.
Holder *vs.* Aultman, Miller & Co., 169 U. S., 81.
Scott *vs.* Donald, 165 U. S., 58.
Penn. Mut. Life Ins. Co. *vs.* Austin, 168 U. S., 685.
Whitten *vs.* Tomlinson, 160 U. S., 231.

V.

Conceding, for the sake of the argument, that this court is confined to the question of jurisdiction alone, and is without the power, on this appeal, of considering any other questions involved in the record, then we submit that it is wholly im-

possible for the court to separate the question of jurisdiction in this case from the question of whether or not the suffrage provisions of the constitution of Alabama are in contravention of the fourteenth and fifteenth amendments to the Constitution of the United States. Indeed, the two questions are one and inseparable. If the suffrage provisions do not contravene the fourteenth and fifteenth amendments, manifestly there can be no jurisdiction in the United States circuit court; whereas if they do contravene the Constitution of the United States, then arises the question of the power of the circuit court to grant the relief.

VI.

We submit that section 180 of article 8 of the constitution of Alabama, known and administered as the temporary plan, contravenes the fourteenth and fifteenth amendments to the Constitution of the United States, in its purpose, in its language and meaning, and in the way and manner in which it has been carried out and administered by the authorities in the State of Alabama. The opening address of the presiding officer of the constitutional convention, the Hon. John B. Knox, clearly and frankly states that the purpose of calling the convention and the work which the convention was called to accomplish was to disfranchise the negroes of Alabama without disfranchising a single white man (Record, page 15).

The speech of the chairman of the committee on suffrage and elections, Judge Coleman, in support of the majority report, and, indeed, all the speeches set out in "Exhibit C" to the bill, clearly show and frankly admit that the sole

purpose the convention had in view in framing the provisions on suffrage and elections was to invent a scheme by which to disfranchise the negroes without disfranchising a single white man in Alabama (Record, pages 35–399).

We submit that subdivisions 1 and 2 of section 180, fixing qualifications upon persons who served in the war of 1812, and in the war with Mexico and with the Indians, and in the land or naval forces of the Confederate States, and their descendants, discriminate against the negroes of Alabama, for the reason that it was impossible, owing to their previous condition of servitude, for them to attain to such qualifications (Record, page 3).

We further submit that subdivision three (3) is too general, and really describes no qualifications, but simply invests the registrars with unlimited and arbitrary power (Record, page 3).

But conceding, for the sake of the argument, that our contention is wrong as to the language and meaning of these subdivisions, still we insist that the administration of said section by all the boards of registrars in the State of Alabama, as shown in the bill and admitted by the demurrer, makes this section unconstitutional and void, because the registrars refused to register qualified negroes for no other reason than their race and color, and required the negroes to produce the testimony of white men as to their qualifications and character, and refused to accept the testimony of colored men, while all white men were registered upon their application without further proof of qualifications than the oath of the applicant (Record, page 11).

Ah Kow *vs.* Neunan, 5th Sawyer, 560.

Yick Wo *vs.* Hopkins, 118th U. S., 356.

Davies *vs.* McKeeby, 5th Nevada, 369.

VII.

We submit that section 181 of the constitution of Alabama, known as the permanent plan, contravenes the fourteenth and fifteenth amendments to the Constitution of the United States, in its purpose and object and in its language and meaning, and therefore should be declared null and void and should not be allowed to be enforced. We refer again to the speeches delivered upon the floor of the convention to show that the purpose in framing this section, in connection with the others on suffrage and elections, was to invent a scheme to evade and avoid the fifteenth amendment to the Constitution of the United States.

The section is also utterly unreasonable and void, in that it provides that no person can become qualified unless his place of residence shall remain unchanged (Record, page 3). It fails to state from what period, whether from the making of the constitution or from the time it went into effect, or from the time the permanent plan goes into effect, that the place of residence must remain unchanged. So that it is impossible to tell from the language of the section at what period an elector must become fixed and stationary in his place of residence in Alabama in order to qualify under this section. Neither does the section explain what is meant by a change of one's place of residence under its provisions. It seems that a proper definition of the qualifications for citizenship would require that this section explain what is meant by a change of the place of residence of an elector, whether from the ward or the precinct, or the county or the State. The registrars could easily hold under this section

that a citizen moving from one house to another on the same street, or across the street in the same ward, had changed his place of residence and is therefore disqualified.

But, conceding that the foregoing argument is untenable as to this section, we still maintain that it is clearly made unconstitutional and void in the manner of the administration of the temporary plan by the registrars in allowing all white men in the State of Alabama to qualify under the temporary plan, and at the same time refusing to allow nearly all negroes to qualify under the same for no other reason than their race and color, and telling them to come back after the 1st of January, 1903, which is admitted by the demurrer. The State of Alabama, through the registrars, has thus compelled the negroes to look to the permanent plan alone for their qualifications to become electors, which makes the law special class legislation from its inception intended to operate against the negroes of Alabama alone.

Jew Ho *vs.* Williamson, 103 Fed. Rep., 10.

Yick Wo *vs.* Hopkins, 118th U. S., 356.

VIII.

The bill contains the following allegations as to section 186 of article 8 of the Alabama constitution, which are admitted by the demurrer and which we now urge as a proposition, to wit: Your orator further shows that section 186 of the suffrage article of the new constitution of Alabama is obnoxious and repugnant to the fourteenth and fifteenth amendments to the Constitution of the United States, in this: that the board of registrars are given absolute and unlimited power and are clothed with the discretion of judicial officers

solely for the purpose of placing the said boards beyond the process of the courts, and of more effectually denying, abridging, and hindering your orator in his right to qualify as an elector, and to vote in the State of Alabama, on the ground of his race and color and previous condition of servitude; and further because the right of appeal pretended to be given by said section from the decision of said registrars to the circuit courts of the State of Alabama, to be tried before a jury, as therein prescribed, is a mere pretext and a fraud, and was not meant to give any real remedy to your orator and his race when refused registration, because at the time said section was enacted and for a long time prior thereto and at the present time the juries in all the trial courts of Alabama were composed and are composed exclusively of white men, and negroes were and are excluded from service on any juries in the trial courts of Alabama for no other reason than their race and color, although otherwise qualified for such service, and the makers of said constitution knew that an appeal to said courts from the decision of the registrars would result in the same denial of constitutional rights, and that your orator and his race would meet the same prejudice exhibited against them by the boards of registrars, and that said section is also a part of the scheme to deny and abridge the right of your orator to vote in the State of Alabama and the right of his race to vote on account of their race and color and previous condition of servitude (Record, page 10).

Carter *vs.* Texas, 177th U. S., 442.

Ah Kow *vs.* Neunan, 5th Sawyer, 560.

Yick Wo *vs.* Hopkins, 118th U. S., 356.

IX.

This court will take judicial knowledge of the fact that the negroes constitute the majority of the laboring element in the State of Alabama, and we submit that section 188 of article 8 of the present constitution of Alabama was especially aimed at the negroes of Alabama in providing that "from and after the first day of January, 1903, any applicant for registration may be required to state under oath, to be administered by the registrars or by any person placed by law to administer oaths, where he lived during the five years next preceding the time at which he applies to register, and the name or names by which he was known during that period, and the name of his employer or employers, if any, during such period. Any applicant for registration who refuses to state such facts, or any of them, shall not be entitled to register, and any person so offering to register who wilfully makes a false statement in regard to such matters, or any of them, shall be guilty of perjury, and upon conviction thereof shall be imprisoned in the penitentiary for not less than one nor more than five years" (Record, page 8).

X.

We submit that all of the sections of the suffrage article of the constitution of Alabama constitute one entire scheme on the part of the State of Alabama to evade the fourteenth and fifteenth amendments to the Constitution of the United States, and to discriminate against and disfranchise the negroes of the State of Alabama on account of their race and

color and previous condition of servitude, and all of them should be declared null and void.

CONCLUSION.

This court will take judicial knowledge of the facts of history, which show the negro's faithfulness as a slave, and his patriotism and loyalty to the interests and welfare of this country whenever imperiled, since the time of the Revolution, which, we submit, entitle him to fair and just treatment at the hands of those who administer the law. And this court must know that the honor of this nation is bound to suffer in the estimation of the world if its solemn constitutional guarantees made to the negro shortly after the late civil war, when his conspicuous service in behalf of the Union was fresh in the minds of the American people, are allowed to go unenforced, and to become a dead letter in a well-established case like this.

WILFORD H. SMITH,
Attorney for Appellant.

Supreme Court of the United States

OCTOBER TERM, 1902.

No. 493.

JACKSON W. GILES, APPELLANT,

vs.

E. JEFF. HARRIS ET AL., BOARD OF REGISTRARS OF MONTGOMERY COUNTY, ALABAMA, APPELLEES.

SUPPLEMENTAL AND REPLY BRIEF FOR APPELLANT.

MOTION TO DISMISS APPEAL.

Replying to the motion of appellees to dismiss this appeal, the appellant comes and says that the motion should be denied, and in support of his contention submits the following points of argument:

I.

The sole object of this suit is to have the suffrage provisions of the constitution of Alabama declared null and void

because repugnant to the fourteenth and fifteenth amendments to the Constitution of the United States, and to compel the board of registrars to register appellant and grant him a certificate of qualification as an elector, the same as granted to white men, because such registration and certificate had been refused him for no other reason than his race and color and previous condition of servitude, and because such refusal deprived him of the right to vote and the equal protection of the law on account of his race and color.

The right to vote at the election in November, 1902, was not sought to be secured by this action, but the fact that appellant would be deprived of the right to vote at that election was alleged to show the immediate effect of the refusal of the board of registrars to register appellant and grant him a certificate. It was also deducible from the allegations of the bill that if appellant should be unable to qualify under what is known as the permanent plan, which it is pretended will be carried into operation after the first day of January, 1903, or if said permanent plan were never put in effect, that he would be permanently deprived of the right to vote in the State of Alabama by reason of the action of said board.

II.

The board of registrars of Montgomery county is a quasi-judicial office created by the constitution of Alabama, to which is committed the administration of the law on suffrage and elections, and the judgment and decrees of this court will be binding on that board irrespective of the per-

sons in office. Subdivision six (6) of article 186 of the constitution of Alabama (Record, page 7) provides that "in case of appeal to the supreme court, final judgment in favor of the petitioner shall entitle him to registration as of the date of his application to the registrars," which clearly implies that the board of registrars, as an official body or court, will enforce the judgments and decrees that may be rendered against it irrespective of the persons that may have been in office at the time the application was made for registration. This also appears from subdivision one (1) of article 186 of the constitution (Record, page 5) in providing that "if a vacancy or vacancies occur in the membership of the board of registrars from any cause, the governor, auditor and commissioner of agriculture and industries, or a majority of them, acting as a board of appointment, shall make other appointments to fill such board."

III.

It nowhere appears from the record or from any other evidence that appellees are no longer members of the board of registrars of Montgomery county, Alabama, or that the office of board of registrars has ceased to exist under the constitution of Alabama. On the contrary, it is clearly to be seen from a careful reading of section 186 and subsequent sections that no limit is placed upon the term of a member of this board, and that the board is a permanent office under the constitution.

The fact that it is called upon to administer the tempo rary plan, which ceases to operate after the 1st day of Janu-

ary, 1903, is likely to mislead one to the conclusion that the board of registrars also goes out of office with the temporary plan; but this view is not upheld by the language of the law. If the functions and powers of the board are to cease with the temporary plan, then why is it provided in section 187 of the constitution (Record, page 7) that "The board of registrars in each county shall on or before the first day of February, 1903, *or as soon thereafter as practicable*, file in the office of the judge of probate in their county a complete list, sworn to by them, of all persons registered in their county," etc.?

The idea that the board of registrars is a fixed and permanent body under the constitution is also borne out by the following provision in the latter part of section 187 (Record, page 7), to wit: "Unless he shall become disqualified under the provisions of this article, any one who shall register prior to the first day of January, 1903, shall remain an elector during life, and shall not be required to register again unless he changes his residence, in which event he may register again on production of his certificate." Also the following provision: "The certificate of the registrars, or of the judge of probate, or of the secretary of state, shall be sufficient evidence to establish the fact of such life registration."

It would seem from section 190 of article 8 of the constitution of Alabama, which is not in the record, but of which the court will take judicial notice, that the legislature is not even given the power to do away with or interfere with the present board of registrars, nor to create a new or different board. That section contains the following provision: "The

legislature shall pass laws not inconsistent with this constitution, to regulate and govern elections; and shall provide general registration laws not inconsistent with the provisions of this article, for the registration of all qualified electors, after the first day of January, 1903."

WILFORD H. SMITH,
Counsel for Appellant.

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Supreme Court, U. S.
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JAMES H. McKENNEY,
Clerk.

Supreme Court of the United States

OCTOBER TERM, 1906. No. 482.

JAMES W. STRIFF, Appellant,

vs.

E. MAY HARRIS, WILLIAM A. GUNTER, JR., and CHARLES B. TRAWICK, Board of Registrars of Montgomery County, Alabama.

Brief for Appellant, by W. A. Gunter, on Motion to Dismiss the Appeal or Affirm on the Merits.

(Argued January 28, 1907.)

#6

Supreme Court of the United States

OCTOBER TERM, 1902. No. 493.

JACKSON W. GILES, Appellant,

vs.

E. JEFF HARRIS, WILLIAM A. GUNTER, JR., and CHARLES B. TEASLEY, Board of Registrars of Montgomery County, Alabama.

MOTION TO DISMISS APPEAL.

Come the Appellees by their attorney of record, W. A. Gunter, and move the Court to dismiss the appeal in this case, because there is no longer any controversy pending in which relief can be given to appellant. The record in this case shows that appellees are no longer Registrars, and that the events have long since transpired which the bill sought to prevent.—Record, 3 and 14.

W. A. Gunter

Attorney for Appellees.

Supreme Court of the United States

OCTOBER TERM, 1902. No. 493.

JACKSON W. GILES, Appellant,

v.

E. JEFF HARRIS, WILLIAM A. GUNTER, JR., and CHARLES B. TEASLEY, Board of Registrars of Montgomery County, Alabama.

Brief for Appellees, by W. A. Gunter, on Motion to Dismiss the Appeal and on the Merits.

No objection is made to the appellant's statement of the case. The appellant, a negro, filed his bill alleging that the suffrage provisions of the Constitution of Alabama, were void under the fourteenth and fifteenth amendments of the Constitution of the United States, by depriving him and his race of the equal protection of the law, and their right to vote, for no other reason than their race and color and previous condition of servitude. And that appellees, the registrars of persons to be admitted as electors, refused to register him, and issue the usual certificate of qualification for no other reason than his race and color, and had refused to register many other colored persons of Montgomery county, who were qualified, for no other reason than their race and color; and that by such acts appellant and his race

were about to be deprived of their rights to vote for State and Federal offices in the election of November, 1902, and praying that the said suffrage provisions be declared null and void, and that appellees be enjoined from enforcing the same in the approaching election, on account of their race and color and previous condition of servitude.

The bill being demurred to, was dismissed, the court placing its decision on the ground of want of jurisdiction. There were five grounds of demurrer assigned, but they all practically deny the jurisdiction of the court to entertain such a bill, and we agree with the appellant that the court should not dispose of the demurrer adversely to the appellee without ruling on all the grounds to which the decree of dismissal might be referred and be sustained.

ARGUMENT.

I.

Besides the motion to dismiss, argued below, two questions arise in this appeal, both involving the jurisdiction of the court. The first is, whether the Constitution of the court admits of the cognizance of cases of this class, involving "the assertion and protection of political rights;" the second is, whether, conceding the first question, such a case is made out as authorizes the exercise of equitable jurisdiction. It is important, for obvious reasons, that the latter question, if possible, be authoritatively settled, and therefore, we discuss it in the first instance. The duty and responsibility of prescribing the qualification of State electors, who must select the incumbents of political offices, rests entirely with the State government, with the exception

of the restraints imposed by the fifteenth amendment of the Constitution of the United States.

That provision does not pretend to extend any right, or give any privilege, but by negation provides that the right to vote "shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude."

United States v. Reese, 92 U. S. 214.

It is thus plain that the State is at perfect liberty to deny or abridge the right to vote *ad libitum*, provided it touches no question of race, color or previous condition of servitude.

Looking at the provisions of the Constitution of Alabama brought into question on this appeal, they can and do challenge the closest scrutiny. Leaving out of consideration the parts relating to foreigners as not involved, these provisions are as follows:

Sec. 177. "Every male citizen of this State who is a citizen of the United States shall be an elector, and shall be entitled to vote at any election by the people."

Sec. 178. "To entitle a person to vote at any election by the people, he shall have resided in the State at least two years, and in the precinct or ward three months, and shall have been duly registered as an elector, and shall have paid all poll taxes due from him for the year 1901, and each subsequent year." (Then follows a provision as to change of residence.)

Sec. 180. "The following male citizens who are citizens of the United States, twenty-one years old, who, if their place of residence shall remain unchanged, will have at the date of the next general election, the quali-

fications as to residence, prescribed in section 178 of this Constitution, and who are not disqualified under section 182 of this Constitution shall, upon application, be entitled to register as electors prior to the twentieth day of December, nineteen hundred and two, namely:"

First. (This section gives the privilege to all persons who served in the land or naval forces in any war of the United States or in the confederate forces, or those of the State of Alabama during the civil war.)

Second. (This section extends the right to existing persons who are descendants of those mentioned in first section.)

Third. "All persons who are of good character, and who understand the duties and obligations of citizenship under a republican form of government."

181. "After the first of January, nineteen hundred and three, the following persons, and no others, who if their place of residence shall remain unchanged, will have at the date of the next general election, the qualification as to residence prescribed in section 178 of this article, shall be qualified to register as electors; provided, they shall not be disqualified under section 182 of this constitution."

"First. Those who can read and write any article of the Constitution of the United States in the English language, and who are physically unable to work; and those who can read and write any article of the Constitution of the United States in the English language, and who have worked or been regularly engaged in some lawful employment, business or occupation, trade or calling for the greater part of the twelve months next preceding the time they offer to register; and those who

are unable to read and write, if such inability is due solely to physical disability; or,

Second. The owner in good faith in his own right, or the husband of a woman who is the owner in good faith, in her own right, of forty acres of land situated in this State, upon which they reside; or the owner in good faith, in his own right, or the husband of any woman who is the owner in good faith, in her own right, of real estate situated in this State, assessed for taxation at the value of three hundred dollars or more, or the owner in good faith, or the husband of a woman who is the owner in good faith, in her own right, of personal property in this State assessed for taxation at three hundred dollars or more; provided, that the taxes due upon such real or personal property for the year next preceding the year in which he offers to register shall have been paid, unless the assessment shall have been legally contested and is undetermined."

182. (This provision disqualifies persons convicted of certain crimes.)

It is thus seen that the State gave the right to register as an elector prior to January, 1903, to three classes of male citizens of the State and United States having a certain age and qualification as to residence, viz:

First, soldiers and sailors. Second, their descendants. Third, all citizens of good character understanding the duties and obligations of citizenship. It cannot be said, that giving the privilege to soldiers and sailors and their descendants was a *denial* or *abridgment* of the right to vote on account of color, race or previous condition of servitude.

These provisions might, and did, in fact, include many citizens of dark color, many of the negro race, and many

who had been slaves. The objection, then, if any can be made, must rest on the third provision extending the privilege to all persons of good character understanding the duties and obligations of citizenship. It is evident that there can be no valid objection to the terms of this clause.

The electors in a republic are but the trustees for the preservation and advancement of the social condition protected by the government. They directly or indirectly fill every department of that government. They elect those who legislate, those who administer the laws, and those who act as judges.

It is idle to expect that representatives will be much superior to those who elect them. It is, therefore, a mere truism to assert that good government must eventually rest upon the quality and competency of the electors.

No government exists that does not recognize this principle, and following it prescribe some qualification for electors. Whether such qualifications are wise or not, in any particular case, may be, and has often been, a subject of debate. But the right to prescribe them according to the will of the legislative power of the State, exists in absolute form under the single limitation of the Fifteenth Amendment of the Constitution of the United States, that the denial of the right to vote shall not be based on race, color or previous condition of servitude.

And it is impossible to say that there is any such denial in this provision. It is clear that persons of the negro race may have in the highest degree good characters, and understand the duties and obligations of citi-

zenship under a republican government, and thus that they are not excluded.

On the other hand, it is equally obvious that white persons are liable to be excluded as not possessing these qualifications. Therefore, the clause is unobjectionable in its terms.

Williams v. Mississippi, 170 U. S., 213.

If it is "both the right and duty of the legislative body, the supreme power of the State or municipality, to prescribe and determine," "for the safety and comfort of the people" rules and regulations for the slaughter of cattle, and the supply of food and, in so doing, to be able to confer exclusive privileges in the way of monopoly for profit, it is beyond doubt that it is both its right and duty to provide for the security of life, liberty and property, by restricting the elective franchise, which comprehends no element of profit, to persons competent to fill by their choice judiciously the offices of State.

Such power is but the expression of the natural right of self preservation, and the restriction of the Constitution of the United States upon its unlimited exercise, by the supreme power and wisdom of the States, must, by rule and reason, be strictly construed and thus limited to the letter of the law. If the negroes from any cause are generally deficient in the qualities necessary to qualify them as electors, and if these defects render them dangerous controllers of governmental affairs, which a wide and sad experience throughout the South has demonstrated to be the case, and if the supreme power in the State is unable to deny or abridge the right to vote on account of race, color or previous condition of servitude, it is both the right and duty of this supreme power, which is the substituted executive and

representative of the natural impulse of self-preservation, in the expressive language of the Supreme Court of Mississippi, within the limits of permissible action to sweep the field of expedients to obstruct the exercise of suffrage by such race.

Ratcliff v. Beale, 20 So. Rep., 865;
Williams v. Mississippi, 170 U. S., 222.

Doing this, the Constitution of Alabama applies, it is admitted, a test which will exclude with many whites, the mass of the negro population from the privilege of voting.

Certainly the Constitution of the United States cannot be construed into denying the right of a state to prohibit criminals and ignorant persons of bad character from electing its officers and legislators. This, however, must be done to hold the requirement under discussion to be objectionable.

It is insisted, however, that this law was passed with the intent to exclude the negro only, and the speeches of members of the Convention are referred to, to give color to the act.

The intent of a legislative act can only be gathered from its language. The Convention is responsible only for its collective acts embodied in laws, and not at all for the views of individual members.

Fletcher v. Peck, 6 Cranch, 87.
Dodge v. Wolsey, 18 How., 371.
United States v. Des Moines, etc., 142 U. S., 545.
1 Notes to U. S. Rep., 305.

It is again insisted that the administration of the law makes it unconstitutional as being leveled exclusively against the negro race.

The State Convention is responsible only for the administration authorized by the language of the Constitution itself. "The operation of the Constitution and laws is not limited by their language and effects to one race. They reach weak and vicious white men as well as weak and vicious black men, and whatever is sinister in their intention, if anything, can be prevented by both races by the exertion of that duty" common to every citizen, which builds up character, and strives to comprehend the duties of citizenship.—Williams v. Mississippi, 170 U. S., 222. If there be bad administration unauthorized by the law itself, it cannot be corrected by an impeachment of the law, but by an appeal to the courts for the redress of the particular wrong, which, being for the protection of a political right under a State law, would not be within the cognizance of a Court of Equity of the United States.—Green v. Mills, 69 Fed., 852, and authorities there cited.

The bad administration cannot, as in the case of Yick Wo v. Hopkins, 118 U. S , 356, be traced to the law and thus involve its overthrow. In that case there was by the objectionable ordinance, an absolute and unqualified discretion "without reason and without responsibility" vested in the supervisors, to grant or withhold a license to conduct the particular business, while here the provisions of the Constitution confer a power to be judicially exercised, as to the qualifications as to character and capacity of the applicant upon a consideration of all the circumstances of each case, subject to an appeal to the courts. The doctrine of that case, therefore, sustains, rather than defeats the constitutional provisions in question; for the ordinance in 118 U. S., *supra*, was held to be void "on its face," because it authorized a vicious administration, while here the language cannot be tortured into any warrant for conduct against

constitutional rights.—Williams v. Mississippi, 170 U. S., 223–4.

When bad administration is unwarranted by any fair interpretation of the language of the constitutional provision which is impeached, the objection to the law itself is untenable, and whatever wrong may be perpetrated must be remedied without calling in question the right of the supreme power of the State to pass laws which in themselves are not obnoxious to the negations of the Federal Constitution.

But it is insisted that the provision "is too general and really describes no qualifications, but simply invests the registrars with unlimited and arbitrary power."

This, however, is without foundation. Good character is a collective fact founded on behavior and is constantly in issue in criminal cases, and proof of it is a prerequisite to naturalization by foreigners. The provision in question is substantially a copy of the statute of the United States, regulating the qualifications of foreigners who may be naturalized.—Rev. Stat., § 2165.

We have already seen that there is no "arbitrary power" as in the case of Yick Wo v. Hopkins, 118 U. S., 356, but a judicial investigation and determination upon the circumstances of each particular case.

It is next insisted that the permanent plan of registration shown in section 181, which provides for a property or educational qualification, is unconstitutional because it provides that no person shall become qualified unless his place of residence shall remain unchanged and because it is made unconstitutional and void by the manner of the administration of the temporary plan.

As to the objection to the residence feature, it is suffi-

cient to say that it is no abridgment or denial of the right to vote, founded on race, color or previous condition of servitude, and, therefore, though it may be open to criticism in other respects, is beyond the reach of this case. And in reference to the alleged unconstitutionality arising from the bad administration of the temporary plan, we have seen that such administration could not affect the temporary plan itself, and *a fortiori* could not affect a distinct and independent clause relating exclusively to a period subsequent to the filing of the bill and the grievances complained of.

II.

A Court of Equity has no jurisdiction of the subject matter involved in this case.

The object of this suit is to restrain the operations of the State government for the assertion and vindication of a political right to be an elector. This is not within the province of equity jurisprudence which, as is said by Chief Justice Fuller in Green v. Mills, 69 Fed., 852, "It is well settled is conversant only with matters of property and the maintenance of civil rights. The court has no jurisdiction in matters of a political nature, nor to interfere with the duties of any department, unless under special circumstances, and when necessary to the protection of rights of property. Neither the legislative nor the executive department, said Chief Justice Chase in Mississippi v. Johnson, (4 Wall., 475) "can be restrained in its action by the judicial department though the acts of both, when performed, were [illegible] proper cases, subject to its cognizance." "The office and jurisdiction of a Court of Equity," said Mr. Justice Gray, in *re* Sawyer (124 U. S., 200), "unless enlarged by express statute, are limited to the protection of rights of prop-

erty." To assume jurisdiction to control the exercise of political powers, or to protect the purely political rights of individuals, would be to invade the domain of the other departments of government or the counts of common law."

Green v. Mills, 69 Fed., 852, and authorities there cited.

The case of Fletcher v. Tuttle, 151 Ill., 41; 37 N. E., 683, contains a full discussion of this question and defines political and civil rights. The court says: "As defined by Anderson, a civil right is "a right accorded to every member of a district, community or nation," while a political right is a "right exercisable in the administration of government." Says Bouvier: "Political rights consist in the power to participate, directly or indirectly, in the establishment or management of the government. These political rights are fixed by the Constitution. Every citizen has the right of voting for public officers, and of being elected. These are political rights which the humblest citizen possesses. Civil rights are those which have no relation to the establishment, support and management of the government. They consist in the power of acquiring and enjoying property, or exercising the paternal and marital powers and the like. It will be observed that every one, unless deprived of them by sentence of civil death, is in the enjoyment of the civil rights, which is not the case with political rights, for an alien, for example, has no political right, although in the full enjoyment of the civil rights."

It is plain that the right to be admitted to registration as an elector, which is sought to be enforced in this case, is purely political and therefore beyond the jurisdiction of a court of equity.

If there is such a right in any particular case which is denied, it is supposed that the remedies at law are ample for redress, and, certainly, it is wholly beyond the province of a court of equity by its decrees to interfere with the ordinary operations of government as is here proposed.

It is therefore unnecessary to further follow the particulars of the bill in this case calling in question the validity of the Constitution of Alabama.

III.

In the next place the appeal should be dismissed because it is impossible for the appellate court, if it should decide the case in favor of the plaintiff, to grant him any effectual relief.

The defendants below have long since ceased to be officers (Record, p. 3), the events which the bill sought to prevent have all transpired, and the relief prayed, viz: that defendants be enjoined from carrying out and enforcing the provisions of sections 180, 183, 184 and 186 of Article 8 of the Constitution, and from making, using or filing with the election officers any registration books not containing the name of orator, and that they be restrained from withholding from orator and others of his race who applied for registration prior to August first, 1902, certificates of registration, and from otherwise doing or performing any act in the premises which in effect will deprive orator and his race of the right to vote in the election to take place in November, 1902, (see prayer of bill, Record 14) it is impossible for the court to grant, even if the bill was well filed in a proper case in the first instance.

The similar case of Mills v. Green, 159 U. S., 651, is directly in point and reviews the authorities bearing on it. In that case the appeal was dismissed and it seems that such should be the order in the case at bar.

W. H. Gunter

Atty. for Appelees.

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Supreme Court of the United States.

No. 493.—October Term, 1902.

Jackson W. Giles, Appellant,
vs.
E. Jeff Harris, William A. Gunter, Jr., and Charles B. Teasley, Board of Registrars of Montgomery County, Alabama.

Appeal from the Circuit Court of the United States for the Middle District of Alabama.

[April 27, 1903.]

Mr. Justice Holmes delivered the opinion of the Court.

This is a bill in equity brought by a colored man, on behalf of himself "and on behalf of more than five thousand negroes, citizens of the county of Montgomery, Alabama, similarly situated and circumstanced as himself," against the board of registrars of that county. The prayer of the bill is in substance that the defendants may be required to enroll upon the voting lists the name of the plaintiff and of all other qualified members of his race who applied for registration before August 1, 1902, and were refused, and that certain sections of the constitution of Alabama, viz., sections 180, 181, 183, 184, 185, 186, 187 and 188 of article 8, may be declared contrary to the Fourteenth and Fifteenth Amendments of the Constitution of the United States, and void.

The allegations of the bill may be summed up as follows. The plaintiff is subject to none of the disqualifications set forth in the constitution of Alabama and is entitled to vote—entitled, as the bill plainly means, under the constitution as it is. He applied in March, 1902, for registration as a voter, and was refused arbitrarily on the ground of his color, together with large numbers of other duly qualified negroes, while all white men were registered. The same thing was done all over the State. Under section 187 of article 8 of the Alabama constitution persons registered before January 1, 1903, remain electors for life unless they become disqualified by certain crimes, &c., while after that date severer tests come into play which would exclude, perhaps, a large part of the black race. Therefore, by the refusal, the plaintiff and the other negroes excluded were deprived not only of their vote at an election which has taken place since the bill was filed, but of the permanent advantage incident to registration before 1903. The white men generally are registered for good under the easy test and the black men are likely to be kept out in the future as in the past. This refusal to register the blacks was part of a gen-

eral scheme to disfranchise them, to which the defendants and the State itself, according to the bill, were parties. The defendants accepted their office for the purpose of carrying out the scheme. The part taken by the State, that is, by the white population which framed the constitution, consisted in shaping that instrument so as to give opportunity and effect to the wholesale fraud which has been practised.

The bill sets forth the material sections of the State constitution, the general plan of which, leaving out details, is as follows: By § 178 of Article 8, to entitle a person to vote he must have resided in the State at least two years, in the county one year and in the precinct or ward three months, immediately preceding the election, have paid his poll taxes and have been duly registered as an elector. By § 182, idiots, insane persons and those convicted of certain crimes are disqualified. Subject to the foregoing, by § 180, before 1903 the following male citizens of the State, who are citizens of the United States, were entitled to register, viz: First. All who had served honorably in the enumerated wars of the United States, including those on either side in the "war between the States." Second. All lawful descendants of persons who served honorably in the enumerated wars or in the war of the Revolution. Third. "All persons who are of good character and who understand the duties and obligations of citizenship under a republican form of government." As we have said, according to the allegations of the bill this part of the constitution, as practically administered and as intended to be administered, let in all whites and kept out a large part, if not all, of the blacks, and those who were let in retained their right to vote after 1903, when tests might be too severe for many of the whites as well as the blacks went into effect. By § 181, after January 1, 1903, only the following persons are entitled to register: First. Those who can read and write any article of the Constitution of the United States in the English language, and who either are physically unable to work or have been regularly engaged in some lawful business for the greater part of the last twelve months, and those who are unable to read and write solely because physically disabled. Second. Owners or husbands of owners of forty acres of land in the State, upon which they reside, and owners or husbands of owners of real or personal estate in the State assessed for taxation at three hundred dollars or more, if the taxes have been paid unless under contest. By § 183, only persons qualified as electors can take part in any method of party action. By § 184, persons not registered are disqualified from voting. By § 185, an elector whose vote is challenged shall be required to swear that the matter of the challenge is untrue before his vote shall be received. By § 186, the legislature is to provide for registration after January 1, 1903, the qualifications and oath of the registrars are prescribed, the duties of registrars before that date are laid down, and an appeal is given to the county court and Supreme Court if

registration is denied. There are further executive details in § 187, together with the above mentioned continuance of the effect of registration before January 1, 1903. By § 188, after the last mentioned date applicants for registration may be examined under oath as to where they have lived for the last five years, the names by which they have been known, and the names of their employers. This, in brief, is the system which the plaintiff asks to have declared void.

Perhaps it should be added to the foregoing statement that the bill was filed in September, 1902, and alleged the plaintiff's desire to vote at an election coming off in November. This election has gone by, so that it is impossible to give specific relief with regard to that. But we are not prepared to dismiss the bill or the appeal on that ground, because to be enabled to cast a vote in that election is not, as in *Mills* v. *Green*, 159 U. S. 651, 657, the whole object of the bill. It is not even the principal object of the relief sought by the plaintiff. The principal object of that is to obtain the permanent advantages of registration as of a date before 1903.

The certificate of the circuit judge raises the single question of the jurisdiction of the court. The plaintiff contends that this jurisdiction is given expressly by Rev. Stat. § 629, cl. 16, coupled with Rev. Stat. § 1979, which provides that every person who, under color of a State "statute, ordinance, regulation, custom or usage," "subjects, or causes to be subjected, any citizen of the United States or other persons within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

We assume, as was assumed in *Holt* v. *Indiana Manufacturing Co.*, 176 U. S. 68, 72, that § 1979 has not been repealed, and that jurisdiction to enforce its provisions has not been taken away by any later act. But it is suggested that the Circuit Court was right in its ruling that it had no jurisdiction as a court of the United States, because the bill did not aver threatened damage to an amount exceeding two thousand dollars. It is true that by the act of August 13, 1888, c. 866, § 1, 25 Stat. 433, 434, the Circuit Courts are given cognizance of suits of a civil nature, at common law or in equity, arising under the Constitution or laws of the United States, in which the matter in dispute exceeds the sum or value of two thousand dollars. We have recognized, too, that the deprivation of a man's political and social rights properly may be alleged to involve damage to that amount, capable of estimation in money. *Wiley* v. *Sinkler*, 179 U. S. 57; *Swafford* v. *Templeton*, 185 U. S. 487. But, assuming that the allegation should have been made in a case like this, the objection to its omission was not raised in the Circuit Court, and as it could have been remedied by amendment, we think it unavailing. The certificate was made *alio intuitu*. There is no pecuniary limit on appeals to this court

under section 5 of the act of 1891, c. 517; 26 Stat. 826, 828, *The Paquete Habana*, 175 U. S. 677, 683, and we do not feel called upon to send the case back to the Circuit Court in order that it might permit the amendment. In *Mills* v. *Green*, 159 U. S. 651; *S. C.*, 69 Fed. Rep. 852, no notice was taken of the absence of an allegation of value in a case like this.

We assume further, for the purposes of decision, that § 1979 extends to a deprivation of rights under color of a State constitution, although it might be argued with some force that the enumeration of "statute, ordinance, regulation, custom or usage," purposely is confined to inferior sources of law. On these assumptions we are not prepared to say that an action at law could not be maintained on the facts alleged in the bill. Therefore we are not prepared to say that the decree should be affirmed on the ground that the subject-matter is wholly beyond the jurisdiction of the Circuit Court. *Smith* v. *McKay*, 161 U. S. 355, 358, 359.

Although the certificate relates only to the jurisdiction of that court as a court of the United States, yet, as the ground of the bill is that the constitution of Alabama is in contravention of the Constitution of the United States, the appeal opens the whole case under the act of 1891, c. 517, § 5, (26 Stat. 827.) The plaintiff had the right to appeal directly to this court. The certificate was unnecessary to found the jurisdiction of this court, and could not narrow it. As the case properly is here we proceed to consider the substance of the complaint.

It seems to us impossible to grant the equitable relief which is asked. It will be observed in the first place that the language of § 1979 does not extend the sphere of equitable jurisdiction in respect of what shall be held an appropriate subject matter for that kind of relief. The words are "shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress." They allow a suit in equity only when that is the proper proceeding for redress, and they refer to existing standards to determine what is a proper proceeding. The traditional limits of proceedings in equity have not embraced a remedy for political wrongs. *Green* v. *Mills*, 69 Fed. Rep. 852. But we cannot forget that we are dealing with a new and extraordinary situation, and we are unwilling to stop short of the final considerations which seem to us to dispose of the case.

The difficulties which we cannot overcome are two, and the first is this: The plaintiff alleges that the whole registration scheme of the Alabama constitution is a fraud upon the Constitution of the United States, and asks us to declare it void. But of course he could not maintain a bill for a mere declaration in the air. He does not try to do so, but asks to be registered as a party qualified under the void instrument. If then we accept the conclusion which it is the chief purpose of the bill to maintain,

how can we make the Court a party to the unlawful scheme by accepting it and adding another voter to its fraudulent lists? If a white man came here on the same general allegations, admitting his sympathy with the plan, but alleging some special prejudice that had kept him off the list, we hardly should think it necessary to meet him with a reasoned answer. But the relief cannot be varied because we think that in the future the particular plaintiff is likely to try to overthrow the scheme. If we accept the plaintiff's allegations for the purposes of his case, he cannot complain. We must accept or reject them. It is impossible simply to shut our eyes, put the plaintiff on the lists, be they honest or fraudulent, and leave the determination of the fundamental question for the future. If we have an opinion that the bill is right on its face, or if we are undecided, we are not at liberty to assume it to be wrong for the purposes of decision. It seems to us that unless we are prepared to say that it is wrong, that all its principal allegations are immaterial and that the registration plan of the Alabama constitution is valid, we cannot order the plaintiff's name to be registered. It is not an answer to say that if all the blacks who are qualified according to the letter of the instrument were registered, the fraud would be cured. In the first place, there is no probability that any way now is open by which more than a few could be registered, but if all could be the difficulty would not be overcome. If the sections of the constitution concerning registration were illegal in their inception, it would be a new doctrine in constitutional law that the original invalidity could be cured by an administration which defeated their intent. We express no opinion as to the alleged fact of their unconstitutionality beyond saying that we are not willing to assume that they are valid, in the face of the allegations and main object of the bill, for the purpose of granting the relief which it was necessary to pray in order that that object should be secured.

The other difficulty is of a different sort, and strikingly reinforces the argument that equity cannot undertake now, any more than it has in the past, to enforce political rights, and also the suggestion that State constitutions were not left unmentioned in § 1979 by accident. In determining whether a court of equity can take jurisdiction, one of the first questions is what it can do to enforce any order that it may make. This is alleged to be the conspiracy of a State, although the State is not and could not be made a party to the bill. *Hans* v. *Louisiana*, 134 U. S. 1. The Circuit Court has no constitutional power to control its action by any direct means. And if we leave the State out of consideration, the court has as little practical power to deal with the people of the State in a body. The bill imports that the great mass of the white population intends to keep the blacks from voting. To meet such an intent something more than ordering the plaintiff's name to be inscribed upon the lists of 1902 will be needed. If

the conspiracy and the intent exist, a name on a piece of paper will not defeat them. Unless we are prepared to supervise the voting in that State by officers of the court, it seems to us that all that the plaintiff could get from equity would be an empty form. Apart from damages to the individual, relief from a great political wrong, if done, as alleged, by the people of a State and the State itself, must be given by them or by the legislative and political department of the government of the United States.

Decree affirmed.

True copy.

Test:

Clerk Supreme Court, U. S.

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